

FOOTWEAR

CLASSIFICATION AND VALUE GUIDE

*An Informed
Compliance
Publication*



1998

U.S. CUSTOMS SERVICE

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (1998)

**HARMONIZED TARIFF SCHEDULE OF THE
UNITED STATES (ANNOTATED):**

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- PROVIDES THE FOOTWEAR DESCRIPTIONS AND TARIFF CLASSIFICATIONS FROM CHAPTER 64 OF THE TARIFF SCHEDULE.
- THIS IS TO BE USED IN CONJUNCTION WITH THE INFORMED COMPLIANCE PUBLICATION FOR FOOTWEAR.

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HARMONIZED TARIFF SCHEDULE OF THE
UNITED STATES (1998)/FOOTWEAR HANDBOOK

**CHAPTER 64 – FOOTWEAR
HARMONIZED TARIFF SCHEDULE OF THE
UNITED STATES—1998 (ANNOTATED)**

FOOTWEAR HANDBOOK

COMMERCIAL
INVOICE & MARKING
REQUIREMENTS

CUSTOMS VALUE

BUYING AND SELLING
COMMISSIONS

CUSTOMS BINDING
RULINGS PROGRAM

JUNE 1998

INTRODUCTION

The following is a footwear compliance publication put together by the National Commodity Specialist Division (NCSD). It is to be used in conjunction with the Harmonized Tariff Schedule of the United States (HTSUS) and is a guide to help interpret Chapter 64 of the HTS, the footwear chapter. Any article of footwear or footwear parts imported into the United States must be defined according to the classification numbers listed in the HTSUS. This compliance publication has been designed to help you find the proper classification. Chapter 64 is divided into six headings; each heading stands for particular types of footwear. The following is a brief outline of what is contained in each footwear heading:

- 6401** Certain waterproof footwear of molded or cement construction.
- 6402** Footwear with uppers and outer soles of predominately rubber or plastic.
- 6403** Footwear with predominately leather uppers and outer soles of rubber, plastics, leather or composition leather.
- 6404** Footwear with uppers of predominately textile materials and outer soles of rubber, plastics, leather or composition leather.
- 6405** Other footwear not classified in heading 6401 through 6404.
- 6406** Footwear parts and related items.

Once you know what type of footwear you plan to import, you can begin looking for the proper classification number by going to the heading which best describes your footwear. For example, if you plan to import footwear with a predominately plastic upper and plastic outer sole, look for its classification within heading 6402.

The material of the *upper* shall be taken to be the constituent material having the greatest external surface area, no account being taken of *accessories or reinforcements* such as ankle patches, edging, ornamentation, buckles, tabs, eyelet stays or similar attachments. Generally, upper material will cover the sides and top of the foot. (See **Treasury Decision (T.D.) 93-88 dated 10/25/93 and T.D. 84-59 dated 4/11/84, Headquarters Ruling Letter (HQ) 082661 dated 10/17/88, and Slip Op. 96-139 (August 16, 1996).**

In order for a material to be considered the “external surface area of the upper” (ESAU) it must be:

1. *Visible* on the surface of the shoe
2. *Plausible* or viable upper material
3. *Essential* (its removal would render the shoe incomplete). Materials which provide structural support, rigidity or strength to the shoe are considered upper material.

The constituent material of the outer sole shall be taken to be the material having the greatest external surface area in contact with the ground (excluding the heel), no account being taken of *accessories or reinforcements* such as spikes, bars, nails, protectors or similar attachments.

The *tongue* of a shoe is usually not considered part of the ESAU nor as an accessory/reinforcement if it is on a plane lower than the upper and partially or wholly covered by laces and eyelet facings or stays. It is disregarded entirely in the determination of the external surface area measurement. (See **T.D. 84-59 dated 4/11/84 and HQ 955713 dated 9/13/94).** In addition, shoe laces are

disregarded in the determination of the surface area measurement if they do not cover the foot by themselves.

(See Headquarters Ruling Letter (HQ) 084712, dated 8/24/89 and HQ 086029, dated 2/15/90).

A **foxing** is a strip of material which is separate from the sole and upper and which secures the joint between the sole and upper. A fox-



"Foxing"

ing must overlap the upper and the overlap must be readily discernible. The foxing must encircle or substantially encircle the entire shoe and may be attached by cementing, stitching or vulcanizing. (See Treasury Decision (T.D.) 83-116 dated 5/22/83, T.D. 92-108, dated 11/25/92, HQ 950718, dated 2/4/92).

The term "**foxing-like**" applies to that which has the same, or nearly the same appearance, qualities or characteristics as the foxing appearing on the traditional sneaker or tennis shoe. It does not have to be a separate component and may or may not secure the joint between



"Foxing-Like"

the sole and upper. A foxing-like band (FLB) must be applied or molded at the sole and must overlap the upper. It must also encircle or substantially encircle

the entire shoe and can be attached by any means. For example, a shoe with a unit molded sole (a pre-formed molded unit sole which is attached to the upper) is considered to have an FLB if a vertical overlap of 1/4 inch or more exists from where the upper and outer sole initially meet, measured on a vertical plane. If this overlap is less than 1/4 inch, such footwear is presumed not to have an FLB. However, children's shoes (American sizes 8-12) are considered to have a foxing or FLB, if a vertical overlap of 3/16 inch or more exists from where the upper and outer sole initially meet, measured on a vertical plane. Infant's shoes (American sizes 0-7.5) require an overlap of 1/8 inch or more. (See T.D. 83-116, dated 5/22/83, T.D. 92-108 dated 11/25/92, and HQ 950718 dated

2/4/92).

Protective footwear covers waterproof and non-waterproof footwear which is significantly more of a protection against water, oil, grease or chemicals or cold or inclement weather than ordinary footwear of that type.

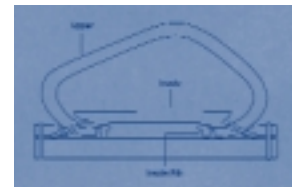
For the purposes of subheadings 6402.12, 6402.19, 6403.12, 6403.19 and 6404.11, the expression **Sports footwear** applies only to:

- (a) footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, cleats, stops, clips, bars or the like AND
- (b) skating boots, ski-boots and cross-country ski footwear, snowboard boots, wrestling boots, boxing boots and cycling shoes.

Athletic Footwear is footwear other than sports footwear (as defined above) and covers footwear such as "tennis shoes, basketball shoes, gym shoes, training shoes and the like" whether or not principally used for such athletic games or purposes. (See T.D. 93-88 dated 10/25/93, HQ 081746, dated 12/1/88, HQ 089297, dated 8/27/91, HQ 953882, dated 9/24/93).

The terms **rubber** and **plastics** include woven fabrics or other textile products with an external layer of rubber or plastics being visible to the naked eye; for the purpose of this provision, no account should be taken of any resulting change of color.

Welt footwear means footwear constructed with a welt, which extends around the edge of the tread portion of the sole, and in which the welt and shoe upper are sewn to a lip on the surface of the insole, and the outsole of which is sewn or cemented to the welt. (Only applies to footwear of heading 6403).



Welt Footwear

Footwear for men, youths and boys covers footwear of American youths' size 11-1/2 and larger for males, and **does not include footwear commonly worn by both sexes.**

Footwear for men covers footwear of American men's size 6 and larger for males, and **does not include footwear commonly worn by both sexes.**

Footwear for youths and boys covers footwear of American youths' size 11-1/2 and larger but not as large as American men's size 6, and **does not include footwear commonly worn by both sexes.**

Footwear for women covers footwear of American women's size 4 and larger, **whether for females or of types commonly worn by both sexes.**

Footwear for misses covers footwear of American misses' size 12-1/2 and larger but not as large as American women's size 4, **whether for females or of types commonly worn by both sexes.**

Footwear for children covers footwear of American children's size 8-1/2 and larger but not as large as the footwear described in statistical notes 1(d) and 1(e).

Footwear for infants covers footwear of sizes not included in the preceding definitions.

Unisex footwear covers, but is not limited to, certain sports and athletic shoes, certain sandals, certain hikers, leisure and casual shoes, motorcycle boots and combat boots and applies to sizes up to, and including American men's size 8 (American men's size 8-1/2 and above are classified as men's). This does not mean that these kinds of footwear are considered women's or girl's but rather men's or boy's shoes which are commonly worn by both sexes. **(Only applies to footwear of heading 6403. See Headquarters Ruling Letter (HQ) 957606, dated 8/31/95).**

Composition leather is made by binding together leather fibers or small pieces of natural leather. It does not include synthetics not based on natural leather. It is usually made of leather waste formed into strips, slabs, or similar forms. **(See Treasury Decision (T.D.) 93-88, dated 10/25/93).**

The term **slip-on** refers to footwear which is held to the foot without the use of functional laces, functional buckles or fasteners. Slip-ons do not include shoes that are considered protective or footwear that possesses foxing or foxing-like bands. **(See HQ 958549, dated 3/6/96).**

In **open toe shoes**, all or part of the front of the wearer's toes can be seen. **(See T.D. 93-88, dated 10/25/93).**

In **open heel shoes**, all or part of the back of the wearer's heel can be seen. Assume part of the wearer's heel can be seen if the opening is at least 0.4 inch (1 cm.) high at its highest point and 0.8 in. (2 cm.) wide at its widest point. **(See T.D. 93-88, dated 10/25/93).**

This chapter does not cover:

1. Footwear of textile materials with no line of demarcation between the sole and the upper, i.e., you cannot remove the stitching, adhesive, etc and have a piece, or maybe two pieces, of material which is the sole in your hand. In general, these are similar to socks except they are not necessarily worn under shoes.
2. Flimsy (usually disposable) footwear of any material with no line of demarcation between the sole and upper. One example is a "protective boot" made by heatsealing together (down the middle) two pieces cut out from a sheet of lightweight plastic.
3. Used footwear which shows signs of appreciable wear and is packaged in bulk.
4. Orthopedic footwear (made to fit one particular person) and orthopedic appliances such as talipes appliances, surgical boots and cast boots, if made to measure.
5. Sports equipment, even though it covers the foot, if its essential character comes from the part(s) that do not cover the foot. Examples are skating boots with ice or roller skates attached, divers' flippers, water skis (which usually have a "foot stirrup" attached), and snowshoes.
6. Toy footwear, including doll's shoes and the plastic "highheels" worn indoors by girls playing "dressup like mommy."

CHAPTER 64 HEADNOTES

CHAPTER 64 FOOTWEAR, GAITERS AND THE LIKE;
PARTS OF SUCH ARTICLES

Notes

- 1. This chapter does not cover:
 - (a) Disposable foot or shoe coverings of flimsy material (for example, paper, sheeting of plastics) without applied soles. These products are classified according to their constituent material;
 - (b) Footwear of textile material, without an outer sole glued, sewn or otherwise affixed or applied to the upper (section XI);
 - (c) Worn footwear of heading 6309;
 - (d) Articles of asbestos (heading 6812);
 - (e) Orthopedic footwear or other orthopedic appliances, or parts thereof (heading 9021); or
 - (f) Toy footwear or skating boots with ice or roller skates attached; shin-guards or similar protective sportswear (chapter 95).
- 2. For the purposes of heading 6406, the term “parts” does not include pegs, protectors, eyelets, hooks, buckles, ornaments, braid, laces, pompons or other trimmings (which are to be classified in their appropriate headings) or buttons or other goods of heading 9606.
- 3. For the purposes of this chapter:
 - (a) the terms “rubber” and “plastics” include woven fabrics or other textile products with an external layer of rubber or plastics being visible to the naked eye; for the purpose of this provision, no account should be taken of any resulting change of color; and
 - (b) the term “leather” refers to the goods of headings 4104 to 4109.

- 4. Subject to note 3 to this chapter:
 - (a) The material of the upper shall be taken to be the constituent material having the greatest external surface area, no account being taken of accessories or reinforcements such as ankle patches, edging, ornamentation, buckles, tabs, eyelet stays or similar attachments;
 - (b) The constituent material of the outer sole shall be taken to be the material having the greatest surface area in contact with the ground, no account being taken of accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments.

Subheading Note

- 1. For the purposes of subheadings 6402.12, 6402.19, 6403.12, 6403.19 and 6404.11, the expression “sports footwear” applies only to:
 - (a) Footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, cleats, stops, clips, bars or the like;
 - (b) Skating boots, ski-boots and cross-country ski footwear, snowboard boots, wrestling boots, boxing boots and cycling shoes.

Additional U.S. Notes

1. For the purposes of this chapter:
 - (a) The term “welt footwear” means footwear constructed with a welt, which extends around the edge of the tread portion of the sole, and in which the welt and shoe upper are sewed to a lip on the surface of the insole, and the outsole of which is sewed or cemented to the welt;
 - (b) The term “footwear for men, youths and boys” covers footwear of American youths’ size 11-1/2 and larger for males, and does not include footwear commonly worn by both sexes.
2. For the purposes of this chapter, the term “tennis shoes, basketball shoes, gym shoes, training shoes and the like” covers athletic footwear other than sports footwear (as defined in subheading note 1 above), whether or not principally used for such athletic games or purposes.
3. For the purposes of heading 6401 “waterproof footwear” means footwear specified in the heading, designed to protect against penetration by water or other liquids, whether or not such footwear is primarily designed for such purposes.
4. Provisions of subheading 6406.10 for “formed uppers” cover uppers, with closed bottoms, which have been shaped by lasting, molding or otherwise but not by simply closing at the bottom.

Statistical Note

1. For the purposes of this chapter:
 - (a) The expression “work footwear” encompasses, in addition to footwear having a metal toe-cap, specialized footwear for men or for women that:
 - has outer soles of rubber or plastics, and
 - is of a kind designed for use by persons employed in occupations, such as those related to the agricultural, construction, industrial, public safety and transportation sectors, that are not conducive to the use of casual, dress, or similar lightweight footwear, and
 - has special features to protect against hazards in the workplace (e.g., resistance to chemicals, compression, grease, oil, penetration, slippage, or static-buildup).
 Footwear does not cover:
 - sports footwear, tennis shoes, basketball shoes, gym shoes, training shoes and the like;
 - footwear designed to be worn over other footwear;
 - footwear with open toes or open heels; or
 - footwear, except footwear of heading 6401, of the slip-on type or other footwear that is held to the foot without the use of laces or a combination of laces and hooks or other fasteners.
 - (b) The term “footwear for men” covers footwear of American men’s size 6 and larger for males, and does not include footwear commonly worn by both sexes;
 - (c) The term “footwear for youths and boys” covers footwear of American youths’ size 11-1/2 and larger but not as large as American men’s size 6, and does not include footwear commonly worn by both sexes;

- (d) The term “footwear for women” covers footwear of American women’s size 4 and larger, whether for females or of types commonly worn by both sexes;
- (e) The term “footwear for misses” covers footwear of American misses’ size 12-1/2 and larger but not as large as American women’s size 4, whether for females or of types commonly worn by both sexes;
- (f) The term “footwear for children” covers footwear of American children’s size 8-1/2 and larger but not as large as the footwear described in statistical notes 1(d) and 1(e);
- (g) The term “footwear for infants” covers footwear of sizes not included in statistical notes 1(b), 1(c), 1(d), 1(e) or 1(f).
- (h) The term “house slippers” covers:
 - (i) Footwear with outer soles not over 3.5 mm in thickness, consisting of cellular rubber, non-grain leather, or textile material; or
 - (ii) Footwear with outer soles not over 2 mm in thickness consisting of polyvinyl chloride, whether or not backed; or
 - (iii) Footwear which when measured at the ball of the foot has sole components (including any inner and midsoles) with a combined thickness not over 8 mm as measured from the outer surface of the uppermost sole component to the bottom surface of the outer sole and which when measured in the same manner at the area of the heel has a thickness equal to or less than that at the ball of the foot.

6401

Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes (but may be assembled by ways other than those mentioned, such as by molding or cementing); "Waterproof" footwear is designed to protect against penetration by water or other liquids (whether or not such footwear was intended to be designed for such purposes); in which the upper is attached to the sole or midsole by a molding process (Note that vulcanization is a type of molding); and in which all significant pieces of the upper are joined to each other by a molding process (such as by gluing, cementing, etc.).

6401.10.00

Includes all footwear covered by this heading which incorporates a protective metal toe-cap (usually between the upper and its lining) designed to protect one's toes from being crushed by heavy objects; includes footwear with uppers of any height (whether covering the knee or below the knee).

6401.91.00

Footwear which covers the wearer's knee; which does not contain a protective metal toe-cap, which is other than a fisherman's wading outfit which is worn under boots.

6401.92.30

Footwear which covers the wearer's ankle, but does not cover the knee; which does not contain a protective metal toe-cap. This sub-heading only includes waterproof ski boots and snowboard boots.

6401.92.60

Footwear which covers the wearer's ankle, but does not cover the knee; which does not contain a protective metal toe-cap, in which both the upper and outer sole's external surface area (including accessories or reinforcements) measure over 90% polyvinyl chloride (PVC plastic), not rubber or other materials. The footwear may or may not contain a lining on the inside of the boot, but if it does, it can only be lined or supported by material which is exclusively PVC (Note that fabric linings in molded boots are virtually never made of 100% PVC).

6401.92.90

Footwear which covers the wearer's ankle, but does not cover the knee; which does not contain a protective metal toe-cap, in which both the upper and outer sole's external surface area (including accessories or reinforcements) does not measure over 90% polyvinyl chloride (PVC) and/or which is lined or supported by material other than PVC.

6401.99.30

Footwear which does *not* extend above the wearer's ankle; which does *not* contain a protective metal toe-cap, which is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; which is designed to be used without closures.

6401.99.60

Same as definition directly above but which is designed to be used *with* closures.

6401.99.80

Footwear which does *not* extend above the wearer's ankle; which does *not* contain a protective metal toe-cap, which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; in which the upper's external surface area is over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper.

6401.99.90

Same as definition directly above but in which the upper's external surface area is *not* over 90% rubber or plastics or which has a foxing or foxing-like band applied or molded at the sole and overlapping the upper.

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Annotated
for Statistical
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HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				1		2
				GENERAL	SPECIAL	
6401		Waterproof footwear with outer soles and Uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes:				
6401.10.00	00	2 Footwear incorporating a protective metal toecap.....	prs.....	37.5%	Free (CA,IL) 25% (MX)	75%
6401.91.00	00	2 Other footwear: 3 Covering the knee..prs.....	37.5%		Free (CA,IL) 25% (MX)	75%
6401.92		3 Covering the ankle but not covering the knee:				
6401.92.30	00	4 Skiboots and snowboard boots Other:	prs.....	1.2%	Free (CA,IL,MX)	35%
6401.92.60	00	5 Having soles and uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is polyvinyl chloride, whether or not supported or lined with polyvinyl chloride but not otherwise supported or lined...	prs.....	5%	Free (CA,IL,MX)	25%
6401.92.90		5 Other.....	.....	37.5%	Free (CA,IL) 25% (MX)	75%
	30	6 Work footwear.....	prs.			
	60	6 Other.....	prs.			
6401.99		3 Other: 4 Designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather:				
6401.99.30	00	5 Designed for use without closures.....	prs.....	25%	Free (CA,IL) 16.6% (MX)	50%
6401.99.60	00	5 Other.....	prs.....	37.5%	Free (CA,IL) 25% (MX)	75%
6401.99.80	00	4 Other: 5 Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper).....	prs.....	1.2%	Free (CA,IL,MX)	35%
6401.99.90	00	5 Other.....	prs.....	37.5%	Free (CA,IL) 25% (MX)	66%

*Except for the 4-digit headings, items highlighted in gold are added for reference only, they are not part of the official tariff.

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6402

This heading covers footwear in which both the upper and outer sole's external surface is predominately rubber and/or plastic. In this heading, Sports Footwear (as specifically limited by definition) applies only to subheading 6402.12.00 through 6402.19.90):

6402.12.00

Includes only ski-boots, snowboard boots, and cross-country ski footwear. This is the *only* tariff number in heading 6402 that may contain ski-boots, snowboard boots, and cross-country ski footwear since they are specifically provided for here.

6402.19.05

Includes only golf shoes in which the upper's external surface area measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. If the external surface area of the upper is over 90 percent rubber or plastics and the shoe has a foxing or foxing-like band or is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather, the applicable subheading is 6402.19.30 through 6402.19.90 depending upon the value.

6402.19.15

Sports footwear, other than golf shoes, in which the upper's external surface area measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. If the external surface area of the upper is over 90 percent rubber or plastics and the shoe has a foxing or foxing-like band or is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather, the applicable subheading is 6402.19.30 through 6402.19.90 depending upon the value.

6402.19.30

Sports footwear, including golf shoes, in which the upper's external surface area *does not* measure over 90% rubber or plastics (including any accessories or reinforcements) *and/or* which has a foxing or foxing-like band applied or molded at the sole and overlapping the upper *and/or* which is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; **which is valued at or under \$3.00 per pair.**

6402.19.50

Same as definition directly above but **which is valued over \$3.00 but not over \$6.50 per pair.**

6402.19.70

Same as definition directly above but **which is valued over \$6.50 but not over \$12.00 per pair.**

6402.19.90

Same as definition directly above but **which is valued over \$12.00 per pair.**

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HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				1		2
				GENERAL	SPECIAL	
6402		Other footwear with outer soles and uppers of rubber or plastics:				
		2 Sports footwear:				
6402.12.00	00	3 Ski-boots, cross-country ski footwear and snowboard boots.....	prs.....	1.2%	Free (CA,IL,MX)	35%
6402.19		3 Other:				
		4 Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and over lapping the upper and except footwear designed to be worn over, or in lieu of other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):				
6402.19.05		5 Golf shoes.....	.....	6%	Free (CA,IL) 3% (MX)	35%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			
6402.19.15		5 Other.....	.....	5.3%	Free (CA,IL,MX)	35%
	20	6 For men.....	prs.			
	40	6 For youths and boys.....	prs.			
	60	6 For women and misses.....	prs.			
	80	6 For children and infants.....	prs.			
6402.19.30		4 Other:				
		5 Valued not over \$3/pair.....	.....	9.6%	Free (CA,IL,MX)	84%
	30	6 For men, youths and boys....	prs.			
	60	6 For women, misses, children, and infants.....	prs.			
6402.19.50		5 Valued over \$3 but not over \$6.50/pair.....	.....	78.8c/pr. + 33.1%	Free (CA,IL,MX)	1.58/pr. + 66%
	30	6 For men, youths and boys...	prs.			
	60	6 For women, misses, children, and infants.....	prs.			
6402.19.70		5 Valued over \$6.50 but not over \$12/pair.....	.....	78.8c/pr. + 17.6%	Free (CA,IL,MX)	1.58/pr. + 35%
	30	6 For men, youths and boys...	prs.			
	60	6 For women, misses, children, and infants.....	prs.			
6402.19.90		5 Valued over \$12/pair.....	.....	11.2%	Free (CA,IL,MX)	35%
	30	6 For men, youths and boys....	prs.			
	60	6 For women, misses, children, and infants.....	prs.			

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OTHER FOOTWEAR (DOES NOT INCLUDE SPORTS FOOTWEAR):**6402.20.00**

Footwear with upper straps or thongs assembled to the sole by means of plugs (zoris). To be considered a true zori, there should be a single-piece molded upper distinct from the sole, which passes into or through the sole and is secured by means of a plug. There should not be any lining on the inner surface of the upper nor on the sole. The footwear must have a flat sole or bottom of uniform thickness. **(See Treasury Decision (T.D.) 93-88, dated 10/25/93).**



Zori

6402.30.30

Footwear with a protective metal toe-cap, the upper's external surface area measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. If the external surface area of the upper is over 90 percent rubber or plastics and the shoe has a foxing or foxing-like band, the applicable subheadings are 6402.30.60 through 6402.30.90 depending upon the value.

6402.30.50

Footwear with a protective metal toe-cap, which is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. In addition, the upper's external surface area may or may not measure over 90% rubber or plastics (including any accessories or reinforcements) and/or which may or may not have a foxing or foxing-like band applied or molded at the sole and overlapping the upper.

6402.30.60

Footwear with a protective metal toe-cap, the upper's external surface area *does not* measure over 90% rubber or plastics (including any accessories or reinforcements) *and/or* which has a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is not designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; **which is valued at or under \$3.00 per pair.**

6402.30.70

Same as definition directly above but **which is valued over \$3.00 but not over \$6.50 per pair.**

6402.30.80

Same as definition directly above but **which is valued over \$6.50 but not over \$12.00 per pair.**

6402.30.90

Same as definition directly above but **which is valued over \$12.00 per pair.**

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HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				1	2	3
				GENERAL	SPECIAL	
6402.20.00	00	2 Footwear with upper straps or thongs assembled to the sole by means of plugs (zoris).....	prs....	0.5%	Free (A,CA,E,IL, J, MX)	35%
6402.30		2 Other footwear incorporating a protective metal toecap:				
6402.30.30	00	3 Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather).....	prs....	6%	Free (CA,IL) 3% (MX)	35%
6402.30.50	00	3 Other: 4 Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.....	prs....	37.5%	Free (CA,IL) 25% (MX)	66%
6402.30.60	00	4 Other: 5 Valued not over \$3/pair.....	prs....	28.8%	Free (CA,IL,MX)	84%
6402.30.70	00	5 Valued over \$3 but not over \$6.50/pair.....	prs....	90¢/pr. + 37.5%	Free (CA,IL) 60¢/pr + 25% (MX)	\$1.58/pr. + 60%
6402.30.80	00	5 Valued over \$6.50 but not over \$12/pair.....	prs....	90¢/pr. + 20%	Free (CA,IL) 60¢/pr. + 13.3% (MX)	\$1.58/pr. + 35%
6402.30.90	00	5 Valued over \$12/pair..... 2 Other footwear:	prs....	20%	Free (CA,IL) 10% (MX)	35%

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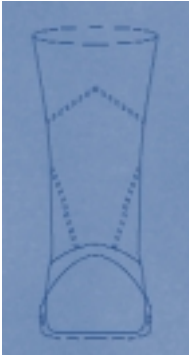
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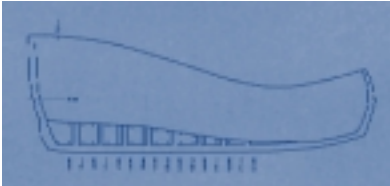
FOOTWEAR COVERING THE ANKLE (AT LEAST HALF OF THE ANKLE BONE IS COVERED; DOES NOT INCLUDE SPORTS FOOTWEAR):

6402.91.40

Footwear covering the ankle, having an external surface area of the upper which measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. However, certain protective footwear can be classified in this subheading if it has uppers which, from a point 3 cm above the top of the outer sole, are made entirely of non-molded construction formed by sewing the parts together and having exposed on the outer surface a substantial portion of functional stitching. If the external surface area of the upper is over 90 percent rubber or plastics and the shoe has a foxing or foxing like band, the applicable subheadings are 6402.91.60 through 6402.91.90 depending upon the value.



(See Headquarters Ruling Letter (HQ) 081596 dated 1/27/88, HQ 088120 dated 1/14/91, and HQ 955210 dated 3/18/94).



Three Centimeter Rule

6402.91.50

Footwear covering the ankle, designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. In addition, the external surface area of the upper may or may not measure over 90% rubber or plastics (including any accessories or reinforcements) and/or may or may not have a foxing or foxing-like band applied or molded at the sole and overlapping the upper.

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				GENERAL	SPECIAL	2
6402.91		3 Covering the ankle:				
6402.91.40		4 Having uppers of which over 90 per- cent of the external surface area (including any accessories or rein- forcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics except (1) foot- wear having a foxing or a foxing- like band applied or molded at the sole and overlapping the upper and (2) except footwear (other than footwear having uppers which from a point 3 cm above the top of the outer sole are entirely of nonmold- ed construction formed by sewing the parts together and having exposed on the outer surface a substantial portion of functional stitching) designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemi- cals or cold or inclement weather.....		Exception to Protective exclusion		
			.....	6%	Free (CA,IL) 3% (MX)	35%
	05	5 For men:				
	10	6 Work footwear.....	prs.			
	30	6 Other.....	prs.			
		5 For youths and boys.....	prs.			
	40	5 For women:				
	50	6 Work footwear.....	prs.			
	60	6 Other.....	prs.			
	75	5 For misses.....	prs.			
		5 For infants and children.....	prs.			
6402.91.50		4 Other:				
		5 Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.....	.....	37.5%	Free (CA,IL) 25% (MX)	66%
	10	6 For men:				
	20	7 Work footwear.....	prs.			
		7 Other.....	prs.			
	45	6 For women:				
	50	7 Work footwear.....	prs.			
	90	7 Other.....	prs.			
		6 For other persons..	prs.			

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6402.91.60

Footwear covering the ankle, having an external surface area of the upper which does *not* measure over 90% rubber or plastics (including any accessories or reinforcements) *and/or* which has a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is not designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; **which is valued at \$3.00 per pair or less.**

6402.91.70

Same as definition directly above but **which is valued over \$3.00 but not over \$6.50 per pair.**

6402.91.80

Same as definition directly above but **which is valued over \$6.50 but not over \$12.00 per pair.**

6402.91.90

Same as definition directly above but **which is valued over \$12.00 per pair.**

FOOTWEAR NOT COVERING THE ANKLE (DOES NOT INCLUDE SPORTS FOOTWEAR):**6402.99.05**

Footwear not covering the ankle, having an external surface area of the upper which measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; **which is made on a base or platform of wood.**

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				1	2	3
				GENERAL	SPECIAL	
6402 (con.)		Other footwear with outer soles and uppers of rubber or plastics (con.):				
		2 Other footwear (con.):				
		3 Covering the ankle (con.):				
		4 Other (con.):				
		5 Other:				
6402.91.60		6 Valued not over \$3/pair.....	.....	48%	Free (CA,IL) 24% (MX)	84%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			
6402.91.70		6 Valued over \$3 but not over \$6.50/pair.....	.....	90¢/pr. + 37.5%	Free (CA,IL) 45¢/pr. + 18.7% (MX)	\$1.58/pr. + 66%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			
6402.91.80		6 Valued over \$6.50 but not over \$12/pair.....	.....	90¢/pr. +20%	Free (CA,IL) 60¢/pr. + 13.3% (MX)	\$1.58/pr. + 35%
		7 For men:				
	10	Work footwear.....	prs.			
	20	Other.....	prs.			
		7 For women.....	prs.			
	45	Work footwear.....	prs.			
	50	Other.....	prs.			
	90	7 For other persons.....	prs.			
6402.91.90		6 Valued over \$12/pair.....	.....	20%	Free (CA,IL) 13.3% (MX)	35%
		7 For men:				
	10	Work footwear.....	prs.			
	20	Other.....	prs.			
		7 For women.....	prs.			
	45	Work footwear.....	prs.			
	50	Other.....	prs.			
	90	7 For other persons.....	prs.			
6402.99		3 Other: <i>Not Covering Ankle</i>				
		4 Having uppers of which over 90 per cent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):		<i>No exception for protective</i>		
6402.99.05		5 Made on a base or platform of wood.....	8%	Free (CA,IL) 4% (MX)	33 1/3%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			

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6402.99.10

Same as definition directly above but **which is made on a base or platform of cork.**



6402.99.14

Same as definition directly above **but which are sandals and similar footwear of plastics, produced in one piece by molding.**

6402.99.18

Includes all other footwear, not covering the ankle, in which the upper's external surface area measures over 90% rubber or plastics (including any accessories or reinforcements); which does *not* have a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather. If the external surface area of the upper is over 90 percent rubber or plastics and the shoe has a foxing or foxing-like band, the applicable subheadings are 6402.99.60 through 6402.99.90 depending upon the value.

6402.99.20

Footwear, not covering the ankle, which is designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.

In addition, the upper's external surface area may or may not measure over 90% rubber or plastics (including any accessories or reinforcements) and/or may or may not have a foxing or foxing-like band applied or molded at the sole and overlapping the upper.

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				1	2	3
				GENERAL	SPECIAL	
6402.99.10		5 Made on a base or platform of cork.....	12.5%	Free (CA,IL) 6.2% (MX)	35%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			
		5 Other:				
6402.99.14		6 Sandals and similar footwear of plastics, produced in one piece by molding.....	.....	3.6%	Free (CA,IL,MX)	35%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			
6402.99.18		6 Other.....	.....	6%	Free (CA,IL) 3% (MX)	35%
	10	7 House slippers.....	prs.			
	15	7 Tennis shoes, basketball shoes, gym shoes, training shoes and the like.....	prs.			
		7 Other:				
		8 For men:				
	35	9 Work footwear.....	prs.			
	45	9 Other.....	prs.			
	50	8 For youths and boys.....	prs.			
		8 For women:				
	55	9 Work footwear.....	prs.			
	65	9 Other.....	prs.			
	70	8 For misses.....	prs.			
	80	8 For children.....	prs.			
	90	8 For infants.....	prs.			
		4 Other:				
6402.99.20		5 Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.....	.....	37.5%	Free (CA,IL) 25% (MX)	66%
		6 For men:				
	10	7 Work footwear.....	prs.			
	20	7 Other.....	prs.			
		6 For women:				
	45	7 Work footwear.....	prs.			
	50	7 Other.....	prs.			
	90	6 For other persons.....	prs.			

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6402.99.30

Footwear, not covering the ankle, which has either open toes or open heels or is of the slip-on type that is held to the foot without the use of laces or buckles or other fasteners; in which the upper's external surface area does not measure over 90% rubber or plastics (including any accessories or reinforcements); which does not have a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper; which is not designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.

6402.99.60

Footwear in which the upper's external surface area does *not* measure over 90% rubber or plastics (including any accessories or reinforcements) *and/or* which has a foxing or foxing-like band applied or molded at the sole and overlapping the upper; which is *not* designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather; **which is valued at or under \$3.00 per pair.**

6402.99.70

Same as definition directly above but **which is valued over \$3.00 but not over \$6.50 per pair.**

6402.99.80

Same as definition directly above but **which is valued over \$6.50 but not over \$12.00 per pair.**

6402.99.90

Same as definition directly above but **which is valued over \$12.00 per pair.**

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				1	2	3
				GENERAL	SPECIAL	
6402.99.30		5 Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6402.99.20 and except footwear having a foxing or a foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper.....	(Not over 90% R/P) Rubber or Plastics	37.5%	Free (CA,IL) 25% (MX)	66%
	20	6 House slippers.....	prs.			
	40	6 Other:				
	60	7 For men.....	prs.			
	80	7 For women.....	prs.			
		7 For other persons.....	prs.			
6402.99.60		5 Other:				
		6 Valued not over \$3/pair.....	.....	48%	Free (CA,IL) 24% (MX)	84%
	15	7 House slippers.....	prs.			
		7 Other:				
	30	8 For men.....	prs.			
	60	8 For women.....	prs.			
	90	8 For other persons.....	prs.			
6402.99.70		6 Valued over \$3 but not over \$6.50/pair.....	.....	90¢/pr. + 37.5%	Free (CA,IL) 45¢/pr. + 18.7% (MX)	\$1.58/pr. + 66%
	15	7 House slippers.....	prs.			
		7 Other:				
	30	8 For men.....	prs.			
	60	8 For women.....	prs.			
	90	8 For other per sons.....	prs.			
6402.99.80		6 Valued over \$6.50 but not over \$12/pair.....	.....	90¢/pr. + 20%	Free (CA,IL) 60¢/pr. + 13.3% (MX)	\$1.58/pr. + 35%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			
6402.99.90		6 Valued over \$12/pair.....	20%	Free (CA,IL) 13.3% (MX)	35%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			

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6403

This heading covers footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather. The term "leather" refers to the goods of headings 4104 to 4109.

In this heading Sports Footwear (as specifically limited by definition) applies only to subheading 6403.12.30 through 6403.19.70:

6403.12.30

Sports footwear, which includes *only* ski-boots, cross-country ski footwear and snowboard boots; in which the sole is attached to the upper by welt stitched construction.

6403.12.60

Sports footwear, which includes *only* ski-boots, cross country ski footwear and snowboard boots; which are *not* of welt construction.

6403.19.10

Sports footwear, which includes *only* golf shoes for men, youths and boys; in which the sole is attached to the upper by welt stitched construction.

6403.19.20

Sports footwear, other than golf shoes; which are shoes for men, youths and boys; in which the sole is attached to the upper by welt stitched construction.

6403.19.30

Sports footwear, which includes *only* golf shoes for men, youths and boys; which are *not* of welt construction.

6403.19.40

Sports footwear, other than golf shoes; for men, youths and boys; which are *not* of welt construction.

6403.19.50

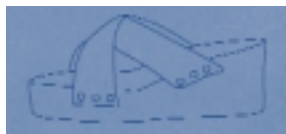
Sports footwear, which includes *only* golf shoes worn by women, misses, children and infants; which may or may not be of welt construction.

6403.19.70

Sports footwear, other than golf shoes; worn by women, misses, children and infants; which may or may not be of welt construction.

OTHER FOOTWEAR (DOES NOT INCLUDE SPORTS FOOTWEAR):**6403.20.00**

Footwear in which the outer sole's external surface is predominately leather; in which the upper consists of leather straps across the instep and around the big toe.

6403.30.00

Platform Shoe

Footwear made on a base or platform of wood (between the outer sole and the wearer's foot); which does not have a separate inner sole upon which the wearer's foot would rest and which extends the length of the wearer's foot; which does not have a protective metal toe-cap.

6403.40.30

Footwear incorporating a protective metal toe-cap; in which the sole is attached to the upper by welt stitched construction.

6403.40.60

Footwear incorporating a protective metal toe-cap; which is not of welt construction.

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				1		2
				GENERAL	SPECIAL	
6403		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather:				
		2 Sports footwear:				
6403.12		3 Ski-boots, cross-country ski footwear and snowboard boots:				
6403.12.30	00	4 Welt footwear.....	prs	Free		20%
6403.12.60	00	4 Other.....	prs	2%	Free (CA,IL,MX)	20%
6403.19		3 Other:				
		4 For men, youths and boys:				
6403.19.10	00	5 Welt footwear				
		6 Golf shoes.....	prs	5%	Free (CA,IL) 2.5% (MX)	20%
6403.19.20	00	6 Other.....	prs.	1%	Free (CA,IL,MX)	20%
		5 Other:				
6403.19.30		6 Golf shoes.....	.....	8.5%	Free (CA,IL) 4.2% (MX)	20%
	30	7 With pigskin uppers..	prs.			
	90	7 Other.....	prs...			
6403.19.40		6 Other.....	.....	5.1%	Free (CA,IL,MX)	20%
	30	7 With pigskin uppers.....	prs.			
	90	7 Other.....	prs.			
		4 For other persons:				
6403.19.50		5 Golf shoes.....	.....	10%	Free (CA,IL) 5% (MX)	20%
		6 For women and misses:				
	30	7 With pigskin uppers.....	prs.			
	60	7 Other.....	prs.			
	90	6 For children and infants.....	prs.			
6403.19.70		5 Other.....	.....	2%	Free (CA,IL,MX)	20%
		6 For women and misses:				
	30	7 With pigskin uppers.....	prs.			
	60	7 Other.....	prs.			
	90	6 For children and infants	prs.			
6403.20.00	00	2 Footwear with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe.....	prs.....	2% ¹	Free (CA,IL,MX)	20%
6403.30.00	00	2 Footwear made on a base or platform of wood, not having an inner sole or a protective metal toecap.....	prs.....	1.6% ¹	Free (CA,IL,MX)	33 1/3%
6403.40		2 Other footwear, incorporating a protective metal toecap:				
6403.40.30		3 Welt footwear.....	.....	5% ¹	Free (CA,IL) 2.5% (MX)	20%
	30	4 With pigskin uppers.....	prs.			
	90	4 Other.....	prs.			
6403.40.60	00	3 Other.....	prs.....	8.5% ¹	Free (CA,IL) 4.2% (MX)	20%

¹ See subheading 9903.41.10.Japan

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**FOOTWEAR WITH UPPERS OF LEATHER AND OUTER SOLES OF LEATHER, COVERING THE ANKLE
(AT LEAST HALF OF THE ANKLE BONE IS COVERED; DOES NOT INCLUDE SPORTS FOOTWEAR):****6403.51.30**

Footwear in which the sole is attached to the upper by welt stitched construction.

6403.51.60

Footwear not of welt construction; for men, youths and boys.

6403.51.90

Footwear not of welt construction; for women and girls, misses, children and infants.

**FOOTWEAR WITH UPPERS OF LEATHER AND OUTER SOLES OF LEATHER,
NOT COVERING THE ANKLE (DOES NOT INCLUDE SPORTS FOOTWEAR):****6403.59.15**

Footwear in which the upper is sewn to the outer sole by means of turned construction (a single sole, flexible shoe in which the sole and upper are stitched together with a chain stitch while wrong side out on the last. The turned shoe has a single sole which is single stitched. It gets its name from the fact that it is made inside out and then turned right side out). **(See Headquarters Ruling Letter (HQ) 088594 dated 10/3/91).**

6403.59.30

Footwear in which the sole is attached to the upper by welt stitched construction.

6403.59.60

Includes all other footwear with uppers and outer soles of leather, *except* those of turned or welt stitched construction; for men, youths and boys.

6403.59.90

Includes all other footwear with uppers and outer soles of leather, *except* those of turned or welt stitched construction; for women, misses, children and infants.

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				1	2	3
				GENERAL	SPECIAL	
6403 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather (con.):				
		2 Other footwear with outer soles of leather:	Leather Soles			
6403.51		3 Covering the ankle:				
6403.51.30		4 Welt footwear.....	.....	5% ¹	Free (CA,IL) 2.5% (MX)	20%
		5 For men:				
	15	6 With pigskin uppers.....	prs.			
	30	6 Other.....	prs.			
	45	5 For youths and boys.....	prs.			
	60	5 For women.....	prs.			
	75	5 For misses, children and infants.....	prs.			
		4 Other:				
6403.51.60		5 For men, youths and boys.....	.....	8.5% ¹	Free (CA,IL) 4.2% (MX)	20%
		6 For men:				
	15	7 With pigskin uppers.....	prs.			
	30	7 Other.....	prs.			
	60	6 For youths and boys.....	prs.			
6403.51.90		5 For other persons.....	.....	10% ¹	Free (CA,IL) 5% (MX)	20%
		6 For women:				
	15	7 With pigskin uppers.....	prs.			
	30	7 Other.....	prs.			
	45	6 For misses.....	prs.			
	60	6 For children.....	prs.			
	75	6 For infants.....	prs.			
6403.59		3 Other: <i>Not Covering Ankle</i>				
6403.59.15		4 Turn or turned footwear.....	.....	2.5% ¹	Free (CA,IL,MX)	10%
	20	5 For men.....	prs.			
	30	5 For youths and boys.....	prs.			
	45	5 For women.....	prs.			
	50	5 For misses.....	prs.			
	60	5 For children and infants.....	prs.			
6403.59.30		4 Welt footwear.....	.....	5% ¹	Free (CA,IL) 2.5% (MX)	20%
		5 For men:				
	20	6 With pigskin uppers.....	prs.			
	40	6 Other.....	prs.			
	45	5 For youths and boys.....	prs.			
	60	5 For women.....	prs.			
	80	5 For misses, children and infants...	prs.			
		4 Other:				
6403.59.60		5 For men, youths and boys.....	.....	8.5% ¹	Free (CA,IL) 4.2% (MX)	20%
		6 For men:				
	40	7 With pigskin uppers.....	prs.			
	60	7 Other.....	prs.			
	80	6 For youths and boys.....	prs.			
6403.59.90		5 For other persons.....	.....	10% ¹	Free (CA,IL) 5% (MX)	20%
		6 For women:				
	30	7 With pigskin uppers.....	prs.			
	45	7 Other.....	prs.			
	60	6 For misses.....	prs.			
	75	6 For children.....	prs.			
	90	6 For infants.....	prs.			

¹ See subheading 9903.41.10.Japan

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6403.91.30
Footwear in which the sole is attached to the upper by welt stitched construction.

6403.91.60
Footwear for men, youths and boys; which are *not* of welt construction.

6403.91.90
Footwear for women, misses, children and infants; which are *not* of welt construction.

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				1	2	3
				GENERAL	SPECIAL	
6403 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather (con.):				
		2 Other footwear: (Non-Leather Soles)				
6403.91		3 Covering the ankle:				
6403.91.30		4 Welt footwear.....	.....	5% ¹	Free (CA,IL) 2.5% (MX)	20%
		5 Work footwear:				
	10	6 For men.....	prs			
	25	6 Other.....	prs.			
		5 Other:				
		6 For men:				
	35	7 With pigskin uppers.....	prs.			
	40	7 Other.....	prs.			
	70	6 For youths and boys.....	prs.			
	80	6 For women.....	prs.			
	90	6 For misses, children and infants.....	prs.			
6403.91.60		4 Other:				
		5 For men, youths and boys		8.5% ¹	Free (CA,IL) 5.6% (MX) 2 /	20%
	10	6 Work footwear.....	prs.			
		6 Other:				
		7 Tennis shoes, basketball shoes, gym shoes, training shoes and the like for men:				
	30	8 With pigskin uppers.....	prs.			
	40	8 Other.....	prs.			
		7 Tennis shoes, basketball shoes, gym shoes, training shoes and the like for youths and boys:				
	50	8 With pigskin uppers.....	prs.			
	60	8 Other.....	prs.			
		7 Other:				
		8 For men:				
	65	9 With pig skin up pers.....	prs.			
	75	9 Other.....	prs.			
	90	8 For youths and boys.....	prs.			
6403.91.90		5 For other persons.....	.....	10% ¹	Free (CA,IL) 5% (MX)	20%
	15	6 Work footwear.....	prs.			
		6 Other:				
		7 For women:				
	25	8 With pigskin uppers.....	prs.			
	45	8 Other.....	prs.			
	50	7 For misses.....	prs.			
	60	7 For children.....	prs.			
	70	7 For infants.....	prs.			

¹ See subheading 9903.41.10. Japan

² See subheading 9906.64.06. Mexico

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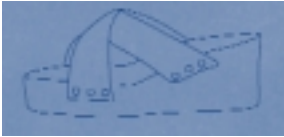
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FOOTWEAR WITH OUTER SOLES OF RUBBER OR PLASTIC OR COMPOSITION LEATHER, NOT COVERING THE ANKLE (DOES NOT INCLUDE SPORTS FOOTWEAR):



Platform Shoe

6403.99.20
Footwear made on a base or platform of wood.

6403.99.40
Footwear in which the sole is attached to the upper by welt stitched construction.

6403.99.60
includes all other footwear, *except* those made on a base or platform of wood or welt stitched construction; which are shoes for men, youths and boys.

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				1	2	3
				GENERAL	SPECIAL	
6403 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather (con.):				
		2 Other footwear (con.):				
		3 Other: <i>Not Covering the Ankle</i>				
6403.99.20		4 Footwear made on a base or platform of wood.....	.....	8% ¹	Free (CA,IL) 4% (MX)	33 1/3%
	30	5 For men.....	prs.			
	60	5 For women.....	prs.			
	90	5 For other persons.....	rs.			
6403.99.40		4 Other:				
		5 Welt footwear.....	.....	5% ¹	Free (CA,IL) 2.5% (MX)	20%
		6 Work footwear:				
	10	7 For men.....	prs.			
	20	7 Other.....	prs.			
		6 Other:				
		7 For men:				
	35	8 With pigskin uppers.....	prs.			
	55	8 Other.....	prs.			
	70	7 For youths and boys.....	prs.			
	80	7 For women.....	prs.			
	90	7 For misses, children and infants.....	prs.			
6403.99.60		5 Other: than welt				
		6 For men, youths and boys.....	.....	8.5% ¹	Free (CA,IL) 4.2% (MX)	20%
	15	7 House slippers.....	prs.			
	25	7 Work footwear.....	prs.			
		7 Other:				
		8 Tennis shoes, basketball shoes, gym shoes, training shoes and the like for men:				
	30	9 With pig skin uppers.....	prs.			
	40	9 Other.....	prs.			
		8 Tennis shoes, basketball shoes, gym shoes, training shoes and the like for youths and boys:				
	50	9 With pig skin uppers.....	prs.			
	60	9 Other.....	prs.			

¹ See subheading 9903.41.10. Japan

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6403.99.75

includes all other footwear, *except* those made on a base or platform of wood or welt stitched construction; which are shoes for women, misses, children and infants; which are valued at or under \$2.50 per pair.

6403.99.90

includes all other footwear *except* those made on a base or platform of wood or welt stitched construction; which are shoes, for women, misses, children and infants; which are valued over \$2.50 per pair.

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HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				GENERAL	SPECIAL	2
6403 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather (con.):				
		2 Other footwear (con.):				
6403.99 (con.)		3 Other (con.):				
		4 Other (con.):				
		5 Other (con.):				
6403.99.60 (con.)		6 For men, youths and boys (con.)				
		7 Other (con.):				
		8 Other:				
		9 For men:				
	65	10 With pig skin uppers.....	prs.			
	75	10 Other	prs.			
	90	9 For youths and boys.....	prs.			
		6 For other persons:				
6403.99.75		7 Valued not over \$2.50/pair.....	.....	8.6% ¹	Free (CA,IL) 7.5% (MX)	20%
	15	8 House slippers.....	prs.			
		8 Other:				
		9 For women:				
	30	10 With pig skin uppers	prs.			
	60	10 Other	prs.			
	90	9 For misses, children and infants.....	prs.			
6403.99.90		7 Valued over \$2.50/pair.....	.....	10% ¹	Free (CA,IL) 5% (MX)	20%
	05	8 House slippers.....	prs.			
	15	8 Work footwear.....	prs.			
		8 Other:				
		9 Tennis shoes, basketball shoes, and the like for women and misses:				
	20	10 With pig skin uppers	prs.			
	30	10 Other	prs.			

¹ See subheading 9903.41.10. Japan

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6403 (CON.)

6404

This heading covers footwear with outer soles of rubber, plastics, leather or composition leather and uppers with external surface areas of predominately textile materials.

Athletic footwear (sports footwear included in this context) in this heading includes:

- 1. Shoes usable only in the serious pursuit of a particular sport, which has or has provision for attachment of spikes, cleats, clips or the like.*
- 2. Ski, snowboarding, wrestling & boxing boots; cycling shoes; and skating boots without skates attached.*
- 3. Tennis shoes, basketball shoes, gym shoes (sneakers), training shoes (joggers) and the like whether or not principally used for such athletic games or purposes.*

Athletic footwear does not include:

- 1. Shoes that resemble sport shoes but clearly could not be used at all in that sporting activity. Examples include sneakers with sequined or extensively embroidered uppers.*
- 2. Slip-ons, except gymnastic slippers.*
- 3. Skate boots with ice skates or roller skates attached.*

6404.11 (TEXTILE UPPER, RUBBER/PLASTIC OUTER SOLE, ATHLETIC)

Footwear, in which the upper's external surface area is predominately textile materials, excluding accessories or reinforcements; in which the outer sole's external surface area is predominately rubber and/or plastics; which is "athletic".

6404.11.20

6404.11 (above) PLUS, in which the upper's external surface area is OVER 50% leather after every leather accessory or reinforcement present is included as part of the upper's external surface area.

HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				1	2	3
				GENERAL	SPECIAL	
6403 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather (con.):				
		2 Other footwear (con.):				
6403.99 (con.)		3 Other (con.):				
		4 Other (con.):				
		5 Other (con.):				
6403.99.90 (con.)		6 For other persons (con.):				
		7 Valued over \$2.50/pair (con.)				
		8 Other (con.):				
	40	9 Tennis shoes, basketball shoes, and the like for children and infants.....	prs.			
		9 Other:				
	55	10 For women:				
		11 With pig skin uppers	prs.			
	65	11 Other	prs.			
	70	10 For misses	prs.			
	80	10 For children	prs.			
	90	10 For infants	prs.			
6404		1 Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:				
		2 Footwear with outer soles of rubber or plastics:				
6404.11		3 Sports footwear; tennis shoes, basket ball shoes, gym shoes, training shoes and the like:				
6404.11.20		4 Having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is leather.....	.....	10.5% ¹	Free (CA,IL) 5.2% (MX)	35%
	30	5 For men.....	prs.			
	45	5 For youths and boys.....	prs.			
	60	5 For women.....	prs.			
	75	5 For misses.....	prs.			
	90	5 For children and infants.....	prs.			

¹ See subheading 9903.41.10.Japan

6404 (CON.)**6404.11.40**

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather after every leather accessory or reinforcement present is included as part of the upper's external surface area; which has soles (and midsoles if any) of rubber or plastic attached to one another and to the upper exclusively with adhesive; in which the sole overlaps the upper nowhere except, at most, at the toe and/or at the heel; which lacks a foxing-like band; and *which is valued at or under \$3 per pair.* **(See Headquarters Ruling Letter (HQ) 069886 dated 6/22/83).**

6404.11.50

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; *which is valued at or under \$3 per pair;* AND

EITHER, in which the soles overlap the upper other than at the toe or heel,

OR which does not have soles and midsoles of rubber or plastics,

OR which is not exclusively of adhesive construction,

OR which has a foxing-like band.

(See Headquarters Ruling Letter (HQ) 069886 dated 6/22/83).

6404.11.60

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather after every leather accessory or reinforcement present is included as part of the upper's external surface area; which has soles (and midsoles if any) of rubber or plastic attached to one another and to the upper exclusively with adhesive; in which the sole overlaps the upper nowhere except, at most, at the toe and/or at the heel; which lacks a foxing-like band; and *which is valued over \$3 but not over \$6.50 per pair.* **(See Headquarters Ruling Letter (HQ) 069886 dated 6/22/83).**

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				1	2	3
				GENERAL	SPECIAL	
6404 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials (con):				
		2 Footwear with outer soles of rubber or plastics (con.):				
6404.11 (con.)		3 Sports footwear; tennis shoes, basket ball shoes, gym shoes, training shoes and the like (con.):				
		4 Other:				
6404.11.40	00	5 Valued not over \$3/pair:				
		6 Having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel.....	prs.....	37.5%	Free (CA,IL,MX)	66%
6404.11.50	00	6 Other.....	prs.....	48%	Free (CA,IL) 32% (MX)	84%
		5 Valued over \$3 but not over \$6.50/pair:				
6404.11.60		6 Having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel.....	37.5%	Free (CA,IL) 25% (MX)	66%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			

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6404 (CON.)**6404.11.70**

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; *which is valued over \$3.00 but not over \$6.50 per pair*; AND EITHER, in which the soles overlap the upper other than at the toe or heel, OR which does not have soles and midsoles of rubber or plastics, OR which is not exclusively of adhesive construction, OR which has a foxing-like band.

(See Headquarters Ruling Letter (HQ) 069886 dated 6/22/83).

6404.11.80

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; and *which is valued over \$6.50 but not over \$12.00 per pair*.

6404.11.90

6404.11 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; and *which is valued over \$12.00 per pair*.

6404.19 (TEXTILE UPPER, RUBBER-PLASTIC OUTER SOLE, NOT ATHLETIC)

Footwear, in which the upper's external surface area is predominately textile materials, excluding accessories or reinforcements; in which the outer sole's external surface area is predominately rubber and/or plastics; which is not "athletic" footwear.

6404.19.15

6404.19 (above) PLUS, in which the upper's external surface area is OVER 50% leather after every leather accessory or reinforcement present is included as part of the upper's external surface area; and which is not designed to be a "protection" against water, oil, or cold or inclement weather.

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				1	2	3
				GENERAL	SPECIAL	
6404 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials (con.):				
		2 Footwear with outer soles of rubber or plastics (con.):				
		3 Sports footwear; tennis shoes, basket ball shoes, gym shoes, training shoes and the like (con.):				
		4 Other (con.):				
		5 Valued over \$3 but not over \$6.50/pair (con.):				
6404.11.70		6 Other.....	.....	90¢/pr. + 37.5%	Free (CA,IL) 60¢/pr. + 25% (MX)	\$1.58/pr. +66%
	30	7 For men.....	prs.			
	60	7 For women.....	prs.			
	90	7 For other persons.....	prs.			
6404.11.80		5 Valued over \$6.50 but not over \$12/pair.....	.....	90¢/pr. + 20%	Free (CA,IL) 60¢/pr. + 13.3% (MX)	\$1.58/pr. +35%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			
6404.11.90		5 Valued over \$12/pair.....	.....	20%	Free (CA,IL,MX)	35%
		6 For men:				
	10	7 Ski boots, cross country ski footwear and snowboard boots.....	prs.			
	20	7 Other.....	prs.			
		6 For women:				
	40	7 Ski boots, cross country ski footwear and snowboard boots.....	prs.			
	50	7 Other.....	prs.			
		6 For other persons:				
	70	7 Ski boots, cross country ski footwear and snowboard boots.....	prs.			
	80	7 Other.....	prs.			
6404.19		3 Other:				
6404.19.15		4 Footwear having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is leather.....	.....	10.5% ¹	Free (CA,IL) 5.2% (MX)	35%
	20	5 For men.....	prs.			
	40	5 For youths and boys.....	prs.			
	60	5 For women.....	prs.			
	80	5 For other persons.....	prs.			

¹ See subheading 9903.41.10. Japan

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6404.19.20

6404.19 (above) PLUS, which is designed to be a protection against water, oil, or cold or inclement weather.

6404.19.25 through 6404.19.35

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which has open toes or open heels or is of the slip-on type; which lacks a foxing-like band, almost wholly of rubber or plastics.

6404.19.25

Also, which is under 10% by weight of rubber and/or plastics; and in which the fabric of the upper consists, by weight, predominately of vegetable fibers such as cotton or flax (linings, accessories, or reinforcements not included).

6404.19.30

Also, which is under 10% by weight of rubber and/or plastics; and in which the largest fabric of the upper consists, by weight, predominately of fibers other than vegetable fibers such as cotton or flax (linings, accessories or reinforcements not included).

6404.19.35

Also, which is 10% or more by weight of rubber and/or plastics.

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				GENERAL	SPECIAL	2
6404 (con.)		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials (con.):				
		2 Footwear with outer soles of rubber or plastics (con.):				
		3 Other (con.):				
		4 Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and over lapping the upper:				
		5 Less than 10 percent by weight of rubber or plastics:				
		4 Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.....	prs.	37.5%	Free (CA,IL) 25% (MX)	66%
	30	5 For men.....	prs.			
	60	5 For women.....	prs.			
	90	5 For other persons.....	prs.			
		6 With uppers of vegetable fibers.....	prs.	7.5%	Free (CA,IL) 3.7% (MX)	35%
		7 House slippers:				
		8 Covering the ankle.....	prs.			
		8 Other.....	prs.			
		7 Other:				
		8 For men.....	prs.			
		8 For women.....	prs.			
		8 For other persons.....	prs.			
		6 Other.....	prs.	12.5%	Free (CA,IL) 6.2% (MX)	35%
		7 House slippers:				
		8 Covering the ankle.....	prs.			
		8 Other.....	prs.			
		7 Other:				
		8 For men.....	prs.			
		8 For women.....	prs.			
		8 For other persons.....	prs.			
		5 Other.....	prs.	37.5%	Free (CA,IL) 25% (MX)	66%
		6 House slippers.....	prs.			
		Other:				
		7 For men.....	prs.			
		7 For women.....	prs.			
		7 For other persons.....	prs.			

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6404 (CON.)**6404.19.40**

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which is not designed to be a protection against water, oil, or cold or inclement weather; which has neither open toes nor open heels and is not a slip-on; which has soles (and midsoles if any) of rubber and/or plastics attached to one another and to the upper exclusively with an adhesive; in which the sole overlaps the upper nowhere except, at most, at the toe and/or at the heel; which does not have a foxing-like band; and *which is valued at or under \$3.00 per pair*.

6404.19.50

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which is not designed to be a protection against water, oil, or cold or inclement weather; *which is valued at or under \$3.00 per pair*; AND
EITHER, in which the soles overlap the upper other than at the toe or heel,
OR which does not have soles and midsoles of rubber or plastics,
OR which is not exclusively of adhesive construction,
OR which has a foxing-like band.

6404.19.60

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which is not designed to be a protection against water, oil, or cold or inclement weather; which has neither open toes nor open heels and is not a slip-on; which has soles (and midsoles if any) of rubber and/or plastics attached to one another and to the upper exclusively with an adhesive; in which the sole overlaps the upper nowhere except, at most, at the toe and/or at the heel; and which does not have a foxing-like band; and *which is valued over \$3.00 but not over \$6.50 per pair*.

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6404 (CON.)**6404.19.70**

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which is not designed to be a protection against water, oil, or cold or inclement weather; *which is valued over \$3.00 but not over \$6.50 per pair*; AND EITHER, in which the soles overlap the upper other than at the toe or heel, OR which does not have soles and midsoles of rubber or plastics, OR which is not exclusively of adhesive construction, OR which has a foxing-like band.

6404.19.80 AND 6404.19.90

6404.19 (above) PLUS, in which the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; which is not designed to be a protection against water, oil, or cold or inclement weather; which has a foxing-like band almost wholly of rubber or plastics, or has neither open toes nor open heels and is not a slip-on.

6404.19.80

Also, *which is valued over \$6.50, but not over \$12.00 per pair*.

6404.19.90

Also, *which is valued over \$12.00 per pair*.

6404.20 (TEXTILE UPPER, LEATHER OUTER SOLE)

Footwear, in which the upper's external surface area is predominately textile materials, excluding accessories or reinforcements; in which the outer sole's external surface area is predominately leather or composition leather.

6404.20.20

6404.20 (above) PLUS, which is, by weight, either not over 50% as a total of textile materials, rubber and plastics OR under 10% of rubber and plastics; and *which is valued at or under \$2.50 per pair*. **(See Headquarters Ruling Letter (HQ) 082614 dated 10/17/88).**

6404.20.40

6404.20 (above) PLUS, which is, by weight, either not over 50% as a total of textile materials, rubber and plastics OR under 10% of rubber and plastics; and *which is valued over \$2.50 per pair*. **(See Headquarters Ruling Letter (HQ) 082614 dated 10/17/88).**

6404.20.60

6404.20 (above) PLUS, which is, by weight, over 50% as a total of textile materials, rubber and plastics AND 10% or over of rubber and/or plastics. **(See Headquarters Ruling Letter (HQ) 082614 dated 10/17/88).**

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				1	2	3
				GENERAL	SPECIAL	
6404.19 (con.)		leather or composition leather and uppers of textile materials (con.): 2 Footwear with outer soles of rubber or plastics (con.): 3 Other (con.): 4 Other (con.): 5 Valued over \$3 but not over \$6.50/pair (con.): 6 Other.....		90¢/pr. + 37.5%	Free (CA,IL) 60¢/pr. + 25% (MX)	\$1.58/pr. + 66%
6404.19.70	15	7 House slippers	prs.			
	30	7 Other:				
	60	8 For men.....	prs.			
	90	8 For women.....	prs.			
		8 For other persons.....	prs.			
6404.19.80		5 Valued over \$6.50 but not over \$12/pair.....		90¢/pr. + 20%	Free (CA,IL) 45¢/pr. + 10% (MX)	\$1.58/pr. + 5%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			
6404.19.90		5 Valued over \$12/pair.....		11.2%	Free (CA,IL,MX)	35%
	30	6 For men.....	prs.			
	60	6 For women.....	prs.			
	90	6 For other persons.....	prs.			
6404.20		2 Footwear with outer soles of leather or composition leather: 3 Not over 50 percent by weight of rubber or plastics and not over 50 percent by weight of textile materials and rubber or plastics with at least 10 percent by weight being rubber or plastics:		<i>Is the whole shoe by weight either</i> <i>1. Less than 10% R/P or</i> <i>2. Not over 50% R/P & T?</i>		
6404.20.20		4 Valued not over \$2.50/pair.....		15%	Free (CA,IL) 7.5% (MX)	35%
	30	5 For men.....	prs.			
	60	5 For women.....	prs.			
	90	5 For other persons.....	prs.			
6404.20.40		4 Valued over \$2.50/pair.....		10%	Free (CA,IL) 5% (MX)	35%
	30	5 For men.....	prs.			
	60	5 For women.....	prs.			
	90	5 For other persons.....	prs.			
6404.20.60		3 Other.....		37.5%	Free (CA,IL) 18.7% (MX)	66%
	40	4 For men.....	prs.			
	60	4 For women.....		prs.		
	80	4 For other persons.....	prs.			
		<i>Is R/P not over 50% but not less than 10%</i>				

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6405**“OTHER” FOOTWEAR**

This heading covers all other types of footwear not specifically excluded from this chapter and not readily classifiable in headings 6401, 6402, 6403, or 6404.

6405.10.00

Footwear, in which the upper's external surface area is predominately composition leather or leather; and in which, if the upper is predominately LEATHER, the outer sole's external surface area is NOT predominately rubber, plastics, leather, or composition leather. (This normally leaves only outer soles of textile materials).

6405.20

Footwear, in which the outer sole's external surface area is NOT predominately rubber, plastics, leather or composition leather (this normally leaves only textile materials); in which the upper's external surface area is predominately textile materials; which has a line of demarcation between the sole and upper; which is not a boot liner.

6405.20.30

6405.20 (above) PLUS, in which the largest fabric of the upper consists, by weight, predominately of vegetable fibers such as cotton or flax (linings, accessories or reinforcements not included).

6405.20.60

6405.20 (above) PLUS, in which the upper and the outer sole derive their essential character from a felt which is, by weight, predominately wool.

6405.20.90

6405.20 (above) PLUS, in which the largest fabric of the upper consists, by weight, predominately of fibers other than vegetable fibers or wool (linings, accessories or reinforcements not included).

6405.90

Footwear, in which the upper's external surface area is NOT predominately leather, composition leather or textile materials; in which, if the external surface area of the upper is predominately rubber and/or plastics, the external surface area of the outer sole is NOT predominately rubber or plastics; in which there is a line of demarcation between the sole and the upper;

6405.90.20

6405.90 (above) PLUS, which is disposable footwear designed for one time use. Note that, if the footwear is not made of paper, it is almost certainly misclassified.

6405.90.90

6404.20 (above) PLUS, which is NOT disposable footwear designed for one time use.

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				1	2	3
				GENERAL	SPECIAL	
6405		Other footwear:				
6405.10.00		2 With uppers of leather or composition leather.....	10%	Free (CA,IL) 5% (MX)	20%
	30	3 For men.....	prs.			
	60	3 For women.....	prs.			
	90	3 For other persons.....	prs.			
6405.20		2 With uppers of textile materials:				
6405.20.30		3 With uppers of vegetable fibers.....	.....	7.5%	Free (CA,IL) 3.7% (MX)	35%
	30	4 For men.....	prs.			
	60	4 For women.....	prs.			
	90	4 For other persons.....	prs.			
6405.20.60		3 With soles and uppers of wool felt.....	.....	2.7%	Free (CA,IL,MX)	35%
	30	4 For men.....(459)	prs. v	kg		
	60	4 For women.....(459)	prs. v	kg		
	90	4 For other persons.....(459)	prs. v	kg		
6405.20.90		3 Other.....	.....	12.5%	Free (CA,IL) 6.2% (MX)	35%
	15	4 House slippers.....	prs.			
		4 Other:				
	30	5 For men.....	prs.			
	60	5 For women.....	prs.			
	90	5 For other persons.....	prs.			
6405.90		2 Other:				
6405.90.20	00	3 Disposable footwear, designed for one time use.....	prs.....	4.5%	Free (A,CA,E,IL,J, MX)	35%
6405.90.90	00	3 Other.....	prs.....	12.5%	Free (CA,IL) 6.2% (MX)	35%

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6406

CERTAIN FOOTWEAR PARTS AND RELATED ITEMS

This heading covers, among other things, all the various component parts of footwear, including uppers whether or not attached to soles other than outer soles, and fittings such as removable insoles, hose protectors (of rubber, rubberized fabric, etc.), removable interior heel cushions and similar articles, as well as outer soles and heels. These footwear parts may be of any material except asbestos and may vary in shape according to the types or styles of footwear for which they are intended. Specifically excluded items from this heading are:

- a. Welts in the length of leather or composition leather (heading 42.5), of plastics (Chapter 39), or of rubber (Chapter 40).*
- b. Special insoles for arch supporting, made to measure and orthopedic appliances (heading 90.21).*
- c. Pegs, nails, eyelets, boot hooks, buckles, protectors (taps), braid, pompoms, laces (which are classified in their appropriate headings), buttons, snap-fasteners, press-studs, push-buttons (heading 96.06) and slide fasteners (zippers, heading 96.07).*

The heading also covers gaiters, leggings, spats, puttees, "mountain stockings" without feet, leg warmers and similar articles, and identifiable parts thereof. They may be made of any material except asbestos. These articles are designed to cover the leg and in some cases part of the foot (e.g., the ankle and instep). They differ from socks and stockings, however, in that they do not cover the entire foot. Certain of these articles may have a retaining strap or elastic band which fits under the arch of the foot.

Formed uppers include:

- 1. In general, all items which have a layer of material between most of the foot and the ground, and which, after lacing or buckling, if needed will stay on the foot if worn in the condition as imported and which are shaped to fit the human foot.*

Formed uppers do not include:

- 1. Moccasin uppers which do not have "closed bottoms", i.e., which have a significant sized hole (the size of a nickel or larger) in the bottom layer, whether or not the upper is fully formed (lasted), unless the piece which will cover that opening is in the same shipment.*
- 2. Any upper which is completely unlaced, i.e., no part of it has been bent (lasted) inward to the horizontal or has received only the limited shaping resulting from "simply closing at the bottom".*
- 3. Uppers with outer soles (which come in contact with the ground in normal use). As long as most of the upper (that which covers the top and sides of the foot) is present; that plus the outer sole adds up to "unfinished footwear" in Harmonized Tariff Schedule of the United States headings 6401-6405.*

Stiffeners are usually inserted between the upper and its lining to give the upper shape and some rigidity. They are now usually made of plastic or plastic coated or filled textile materials. They are usually imported flat and are shaped by machines which use heat and pressure to force them into the required shape after they have been inserted into the upper.

6406.10 (UPPERS AND THEIR PARTS, EXCEPT STIFFENERS)

6406.10.05

Formed uppers, in which the external surface area of the upper, NOT including the insole, accessories, or reinforcements, is predominately leather or composition leather and which are in American size 11-1/2 or larger and worn only by males. **(See Headquarters Ruling Letter (HQ) 950946 dated 6/22/92).**

6406.10.10

Formed uppers, in which the external surface area of the upper, NOT including the insole, accessories, or reinforcements is predominately leather or composition leather and which are worn by females or is in children's American size 11-1/2 or smaller, or is other than only worn by males, i.e., unisex. **(See Headquarters Ruling Letter (HQ) 950946 dated 6/22/92).**

6406.10.20

Formed uppers, in which the external surface area of the upper, NOT including the insole, accessories, or reinforcements is predominately textile materials and in which the upper's external surface area is over 50% leather after every leather accessory or reinforcement present is included as part of the upper's external surface. **(See Headquarters Ruling Letter (HQ) 950946 dated 6/22/92).**

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				1	2	3
				GENERAL	SPECIAL	
6406		1 Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof:				
6406.10		2 Uppers and parts thereof, other than stiffeners:				
		3 Formed uppers:				
		4 Of leather or composition leather:				
6406.10.05	00	5 For men, youths and boys.....	prs.....	8.5%	Free (CA,IL) 4.2% (MX)	20%
6406.10.10	00	5 For other persons.....	prs.....	10%	Free (CA,IL) 5% (MX)	20%
6406.10.20		4 Of textile materials:				
		5 Of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as mentioned in note 4(a) to this chapter) is leather.....	10.5%	Free (CA,IL) 5.2% (MX)	20%
	30	6 For men, youths and boys....	prs.			
	60	For other persons.....	prs.			

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6406 (CON.)

6406.10.25 through 6406.10.40

Formed uppers in which the external surface area of the upper, NOT including the insole, accessories or reinforcements, is predominately textile materials and is still 50% or less leather after every leather accessory or reinforcement present is included-

6406.10.25

Also, which are valued at or under \$3.00 per pair.

6406.10.30

Also, which are valued over \$3.00 but not over \$6.50 per pair.

6406.10.35

Also, which are valued over \$6.50 but not over \$12.00 per pair.

6406.10.40

Also, which are valued over \$12.00 per pair.

6406.10.45

Formed uppers, in which the external surface area of the upper, NOT including the insole, accessories or reinforcements is NOT predominately of leather, composition leather, or textile materials, but which, with all accessories or reinforcements INCLUDED, is OVER 90% rubber or plastics; and which are NOT suitable to be finished into completed footwear either having a foxing or foxing-like band applied or molded at the sole and overlapping the upper or designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.

6406.10.50

Formed uppers, in which the external surface area of the upper, NOT including the insole, accessories or reinforcements, is NOT predominately of leather, composition leather, or textile materials, but which, with all accessories or reinforcements INCLUDED, are 90% or LESS rubber and/or plastics; OR which ARE suitable to be finished into completed footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper or designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.

6406.10.60 through .85

Shoe uppers or parts thereof, which are NOT formed uppers; which are not stiffeners, boot protectors, eyelets, boot hooks, buckles, ornaments, braid, laces (including shoe laces), buttons, snap fasteners, zippers, pompoms, or other trimmings, or, in general, most parts which could be used in articles other than footwear -

6406.10.60

6406.10.60-.85 (above) PLUS, in which, if these are uppers, the upper's external surface area is predominately rubber and/or plastics, excluding accessories or reinforcements, and which, if these are only unexternal parts of uppers, e.g., linings, or are more than external uppers, are essentially only of rubber and/or plastics (note that boot linings sewn to external shafts are more than external uppers).

6406.10.65

6406.10.60-.85 (above) PLUS, in which, if these are uppers, the upper's external surface is predominately leather, excluding accessories or reinforcements and which, if these are only unexternal parts of uppers, e.g., linings, are essentially only of leather.

6406.10.70

6406.10.60-.85 (above) PLUS, in which the upper's external surface area is predominately textile materials, excluding accessories or reinforcements or in which the upper's external surface area is over 50% leather after every leather accessory or reinforcement is included as part of the upper's external surface.

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				1	2	3
				GENERAL	SPECIAL	
6406 (con.)		Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof (con.):				
6406.10 (con.)		2 Uppers and parts thereof, other than stiffeners (con.):				
		3 Formed uppers (con.):				
		4 Of textile materials (con.):				
		5 Other:				
6406.10.25	00	6 Valued not over \$3/pair.....	prs.....	36.5%	Free (CA,IL,MX)	84%
6406.10.30	00	6 Valued over \$3 but not over \$6.50/pair.....	prs.....	68.4¢/pr. + 28.5%	Free (CA,IL,MX)	\$1.58/pr. + 66%
6406.10.35	00	6 Valued over \$6.50 but not over \$12/pair.....	prs.....	67.6¢/pr. + 15%	Free (CA,IL,MX)	\$1.58/pr. + 35%
6406.10.40	00	6 Valued over \$12/pair.....	prs.....	10%	Free (CA,IL,MX)	35%
6406.10.45	00	4 Other:				
		5 Of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics and not suitable to be finished into footwear (1) having foxing or a foxing-like band applied or molded at the sole and overlapping the upper, or (2) designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather.....	prs.....	6%	Free (CA,IL) 3% (MX)	35%
6406.10.50	00	5 Other.....	prs.....	28.5%	Free (CA,IL,MX)	66%
		3 Other:				
6406.10.60	00	4 Of rubber or plastics.....	prs.....		Free	80%
6406.10.65	00	4 Of leather.....	prs.....	0.7%	Free (A*,CA,E,IL,J,MX)	15%
6406.10.70	00	4 Of textile materials of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as mentioned in note 4(a) to this chapter) is leather..	prs.....		Free	35%

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6406 (CON.)**6406.10.72**

6406.10.60-.85 (above) PLUS, in which the upper's external surface area is predominately textile materials excluding accessories or reinforcements; in which the upper's external surface area is still 50% or less leather after every leather accessory or reinforcement present is included as part of the upper's external surface; in which the aggregate of the textile materials present, the cotton fibers weigh more than the man-made fibers, or wool and/or fine animal hair fibers, or any other single type of fibers; and in which the upper's external surface area is less than 50% textile materials after every leather, rubber or plastics accessory or reinforcement is included as part of the upper's external surface area.

6406.10.77

6406.10.60-.85 (above) PLUS, which, if these are uppers, the upper's external surface area is predominately textile materials, excluding accessories or reinforcements; which, if these are only parts of uppers, are of textile materials; in which, in the aggregate of the textile materials present, the cotton fibers weigh more than the man-made fibers, or the wool and/or fine animal hair fibers, or any other single type of fiber; and in which the upper's external surface area is 50% or more textile materials after every leather, rubber or plastics accessory or reinforcement is included as part of the upper's external surface area. Note textile category 369 applies.

6406.10.85

6406.10.60-.85 (above) PLUS, in which the upper's external surface area is predominately a material other than leather, rubber, or plastics, excluding accessories or reinforcements; in which, if the upper's external surface area is predominately textile materials, the upper's external surface area is still 50% or less leather even after every leather accessory or reinforcement present is included as part of the upper's external surface area; in which the upper's external surface area is less than 50% textile materials after every leather, rubber and plastics accessory or reinforcement present is included as part of the upper's external surface area; and in the aggregate of the textile materials present, at least one other type of fiber weighs more than the cotton fibers.

6406.10.9020 through 10.9060

Shoe uppers or parts thereof, which are NOT formed uppers; which are not stiffeners, boot protectors, eyelets, boot hooks, buckles, ornaments, braid, laces (including shoe laces), buttons, snap fasteners, zippers, pompoms, or other trimmings, or, in general, most parts which could be used in articles other than footwear, in which, if uppers, the upper's external surface area is predominately textile materials, excluding accessories or reinforcements; in which, if uppers, the upper's external surface area is 50% or more textile materials after every leather, rubber and plastics accessory or reinforcement present is included as part of the upper's external surface area; which, if unexternal parts of uppers or more than external uppers, are NOT essentially ONLY of leather or of rubber and/or plastics and contain textile materials that are substantially more essential than any other type of material, excluding the two just named - (See below for statistical breakouts and textile category numbers)

6406.10.9020

6406.10.9020-.9060 (above) PLUS, in which, of the textile materials present, the WOOL and/or fine animal hair fibers weigh more than the cotton fibers, the man-made fibers or any other single type of fiber (for uppers, linings, accessories or reinforcements not included). Note textile category 469 applies.

6406.10.9040

6406.10.9020-.9060 (above) PLUS, and in which, of the textile materials present, the MAN-MADE fibers weigh more than the cotton fibers, the wool and/or fine animal hair fibers or any other single type of fiber (for uppers, linings, accessories or reinforcements not included). Note textile category 669 applies.

6406.10.9060

6406.10.9020-.9060 (above) PLUS, in which, of the textile materials present, some OTHER single type of fiber weighs more than either the cotton fibers, or the man-made fibers, or the wool and/or fine animal hair fibers. Note that textile category 899 applies, but also note that no import has ever been found that met all these requirements.

6406.10.9090

Shoe uppers or the parts thereof, which are NOT formed uppers; which are NOT stiffeners, nails, boot protectors, eyelets, boot hooks, buckles, ornaments, braid, laces (incl. shoe laces), buttons, snap fasteners, zippers, pompoms or other trimmings, or, in general, most parts which could be used in articles besides footwear; in which, if uppers, the upper's external surface area is predominately a material other than rubber and/or plastics, leather or textile materials, excluding accessories or reinforcements; and which, if parts of uppers, are essentially of a material other than rubber and/or plastics, leather, or textile materials. Note that the only imports found to be properly classified here have been metal toe caps for work boots.

6406.20.00

Footwear with outer soles or heels, which would be in contact with the ground in use, and in which rubber and/or plastics gives them their essential character.

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				1	2	3
				GENERAL	SPECIAL	
6406 (con.)		Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof (con.):				
6406.10 (con.)		2 Uppers and parts thereof, other than stiffeners (con.):				
		3 Other (con.):				
		4 Other:				
		5 Of cotton:				
6406.10.72	00	6 Uppers of which less than 50 percent of the external surface area (including any leather, rubber or plastics accessories or reinforcements such as mentioned in note 4(a) to this chapter) is textile materials.....	prs.....	11.2%	Free (A,CA,E,IL, J,MX)	62.9%
6406.10.77	00	6 Other.....(369)	prs..v kg	11.2%	Free CA,IL,MX)	62.9%
		5 Other:				
6406.10.85	00	6 Uppers of which less than 50 percent of the external surface area (including any leather, rubber or plastics accessories or reinforcements such as mentioned in note 4(a) to this chapter) is textile materials.....	prs.....	7.2%	Free (A,CA,E,IL, J,MX)	78.5%
6406.10.90		6 Other.....	.....	7.2%	Free (CA,E*,IL, J*, MX)	78.5%
		7 Of textile materials other than cotton:				
	20	8 Of wool or fine animal hair .....(469)	prs. v kg			
	40	8 Of man-made fibers.....(669)	prs. v kg			
	60	8 Other.....(899)	prs. v kg			
	90	7 Other.....	X			
6406.20.00	00	2 Outer soles and heels, of rubber or plastics.	X.....	3.2%	Free (A,CA,E,IL, J,MX)	80%

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6406 (con.)**6406.91.00**

Parts of footwear, in which wood gives them their essential character.

6406.99 (Balance of 6406)**6406.99.1505 through .99.1510**

Leg warmers, which are essentially of textile materials; in which the man-made fibers weigh more than the cotton fibers, the wool and/or fine animal hair fibers, or any other single type of fiber -

6406.99.1505

Also, in which the wool and/or fine animal hair is 23% or MORE, by weight, of the fibers present. Note textile category 459 applies.

6406.99.1510

Also, in which the wool and/or fine animal hair is UNDER 23%, by weight, of the fibers present. Note textile category 659 applies.

6406.99.1540

Parts of footwear; or removable insoles or heel cushions or the like; or gaiters or leggings or the like (except leg warmers or tights) or the parts thereof; which are stiffeners or are not uppers (with or without insoles) or parts thereof; which are other than ornaments, braid, laces (incl. shoe laces), buttons, pompoms or other trimmings, or, in general, most parts usable in articles besides footwear; which cover either none or only part of the foot; and which are of textile materials in which the man-made fibers weigh more than the cotton fibers, or the wool and/or fine animal hair fibers, or any other single type of fiber. Note textile category 659 applies.

6406.99.1550

Leg warmers, which are essentially of textile materials and in which the cotton fibers weigh more than the man-made fibers, or the wool and/or fine animal hair fibers, or any other single type of fiber. Note textile category 359 applies.

6406.99.1560

Leg warmers, which are essentially of textile materials and in which the wool and/or fine animal hair fibers weigh more than the cotton fibers, the man-made fibers, or any other single type of fiber. Note textile category 459 applies.

6406.99.1570

Leg warmers, which are essentially of textile materials and in which another single type of fiber weighs more than either the cotton fibers, the man-made fibers, or the wool and/or fine animal hair fibers. Note that no import has been found that meets all these requirements. Note textile category 859 applies.

6406.99.1580

Parts of footwear; or removable insoles or heel cushions or the like; or gaiters or leggings or the like (except leg warmers or tights) or the parts thereof; which are stiffeners or are not uppers (with or without insoles) nor the parts thereof; which are other than ornaments, braid, laces (including shoe laces), buttons, pompoms, or other trimmings, or, in general, most parts which could be used in articles besides footwear; which cover either none or only part of the foot; and which are of textile materials in which one single type of fiber weighs more than the man-made fibers.

6406.99.3030

Parts of footwear, which are unit bottoms which are "more than" outer soles or outer heels; in which rubber and/or plastics give them their essential character; and which are not boot bottoms, i.e., the foot portion of a boot with a shaft (when complete).

6406.99.3060

Parts of footwear, or removable insoles, heel cushions or the like, or gaiters, leggings or the like, or parts thereof, which either are stiffeners or are not uppers (with or w/o insoles) nor parts of uppers; which are not outer soles or outer heels; which are not boot protectors, welt strips uncut to lengths, ornaments, trimmings, or, in general, most items that could be used in articles besides footwear; which are not shinguards or similar protective sportswear; which are not orthopedic appliances or parts or accessories thereof; which are essentially of rubber and/or plastics (Textile fabrics which are laminated to sheets of cellular plastic and are present merely for reinforcing purposes are considered plastics. The exposed fabric layer in an insole does more than merely reinforce the foam plastic, but, on the other hand, the fact that, in a shaped, shock-absorbing insole, the essential character given by the plastic has been ruled to be controlling for classification.)

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Annotated
for Statistical
Reporting
Purposes

HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				GENERAL	SPECIAL	2
6406 (con.)		Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof (con.):				
		2 Other:				
6406.91.00	00	3 Of wood.....	X.....	3.1%	Free (A,CA,E,IL, J,MX)	33 1/3%
6406.99		3 Of other materials:				
6406.99.15		4 Of textile materials.....	.....	16.2%	Free (CA,E*,IL,J*, MX)	72%
		5 Of man-made fibers:				
		6 Legwarmers:				
	05	7 Containing 23 percent or more by weight of wool or fine animal hair.....(459)	doz. v kg			
	10	7 Other.....(659)	doz. v kg			
	40	6 Other.....(659)	doz. v kg			
		5 Other:				
		6 Legwarmers:				
	50	7 Of cotton.....(359)	doz. v kg			
	60	7 Of wool or fine animal hair..... (459)	doz. v kg			
	70	7 Other.....(859)	doz. v kg			
	80	6 Other.....	doz. v kg			
6406.99.30		4 Of rubber or plastics.....	5.3%	Free (A,CA,E,IL, J,MX)	80%
	30	5 Bottoms.....	X			
	60	5 Other.....	X			

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6406.99.60

Parts of footwear, or removable insoles or heel cushions or the like, or gaiters, leggings or the like, or parts thereof; which are not uppers (with or without insoles attached) nor the parts thereof; which are not shinguards or similar protective sportswear; which are not orthopedic appliances or parts or accessories thereof; in which leather gives them their essential character; and which are not boot protectors, welt strips not cut to length, buckles, ornaments, laces (including shoe laces), buttons, pompoms or other trimmings, or, in general, most parts which could be used in articles besides footwear.

6406.99.90

Parts of footwear, or removable insoles or heel cushions or the like, or gaiters, leggings or the like, or parts thereof; which are not uppers (with or without insoles attached) nor the parts thereof; in which the essential character is not given by either wood, rubber and/or plastics, textile materials, or leather (Commercially, the only materials left are metals, cork, cardboard, paperboard and furskin); which are not nails, boot protectors, zippers, ornaments, or trimmings, or, in general, most parts which could be used in articles besides footwear; which are not shinguards or similar protective sportswear; and which are not orthopedic appliances or parts or accessories thereof.

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES—1998 (ANNOTATED)

Annotated
for Statistical
Reporting
Purposes

HEADING/ SUBHEADING	STAT. SUFFIX	ARTICLE DESCRIPTION	UNIT OF QTY.	RATES OF DUTY		
				GENERAL	1	2
					SPECIAL	
6406.99.60	00	6 Of leather.....	X.....	1%	Free (A*,CA,E,IL, J,MX)	15%
6406.99.90	00	6 Other.....	kg.....	3.6%	Free (A,CA,E,IL, J,MX)	45%

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*What Every Member of
the Trade Community Should
Know About:*

8 cm

COMMERCIAL INVOICE & MARKING REQUIREMENTS:

**A BASIC LEVEL INFORMED COMPLIANCE PUBLICATION OF
THE U.S. CUSTOMS SERVICE**

HARMONIZED TARIFF SCHEDULE OF THE
UNITED STATES (1998)/FOOTWEAR HANDBOOK

**COMMERCIAL
INVOICE & MARKING
REQUIREMENTS**

CUSTOMS VALUE

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JUNE 1998

COMMERCIAL INVOICE & MARKING REQUIREMENTS

INVOICING REQUIREMENTS FOR FOOTWEAR

To ensure uniformity (especially in classification) in Customs treatment of imported merchandise, Customs needs complete and accurate invoices. The invoice is the primary document for Customs to identify the transaction which caused the importation.

19 CFR Section 141.86, includes the following requirements:

1. Name of seller
2. Name of purchaser
3. Detailed description of the merchandise, including the type of shoe, the size of the shoe and the component material comprising the surface area of the upper and the sole.

In addition, refer to 19 CFR Section 141.83, for type of invoice required.

MARKING REQUIREMENTS FOR FOOTWEAR

Footwear must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article will permit, such a manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. A textile label sewn on an inner seam or an indelible ink stamp are the accepted forms of marking. Paper sticker labels are usually not acceptable. Note that both shoes in a pair must be marked. (Refer to 19 CFR 131.41 for methods & manner of marking and 19 CFR 134.44 for location and other acceptable methods of marking).

*What Every Member of
the Trade Community Should
Know About:*

8 cm

CUSTOMS VALUE

A BASIC LEVEL INFORMED COMPLIANCE PUBLICATION OF
THE U.S. CUSTOMS SERVICE

1.6 cm

1.6 cm

1.5 cm

1.4 cm

1.3 cm

1.2 cm

1.2 cm

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INTRODUCTION

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), which is also known as the Customs Modernization Act or “Mod Act,” became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws. Two new concepts which emerge from the Mod Act are “informed compliance” and “shared responsibility.” These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community’s responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act, as amended, (19 U.S.C. 1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care may lead to delay in the release of merchandise or the imposition of penalties.

My office has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs intends to issue a series of informed compliance publications, and possibly cd-roms and videos, on topics such as value, classification, entry procedures, determination of country of origin, marking requirements, intellectual property rights, recordkeeping, drawback, penalties and liquidated damages.

The Value Branch in the International Trade Compliance Division of the Office of Regulations and Rulings has prepared this publication on Customs Value, as the first in the series. It is hoped that this material, together with seminars and increased access to Customs rulings, will help the trade community in improving voluntary compliance with the Customs laws.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs valuation issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs valuation. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed, and should be addressed to me at the Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW (Franklin Ct. Bldg), Washington, DC 20229.

Stuart P. Seidel

ASSISTANT COMMISSIONER • OFFICE OF REGULATIONS AND RULINGS

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CUSTOMS VALUE

HOW IS IMPORTED MERCHANDISE APPRAISED?

All merchandise imported into the United States is subject to appraisal. The Trade Agreements Act of 1979 (the Act) sets forth the rules for appraisal of imported merchandise. The Act sets forth six different methods of appraisal, and their order of preference. Under the Act, the preferred method of appraisal is transaction value. Generally, the appraised value of all merchandise imported into the United States is the transaction value of the goods. In the event the merchandise cannot be appraised on the basis of transaction value, the secondary bases are considered in the following order :

1. Transaction Value of Identical Merchandise
2. Transaction Value of Similar Merchandise
3. Deductive Value
4. Computed Value
5. Values if Other Values Cannot be Determined

The importer may request the reversal of Deductive Value and Computed Value at the time the entry summary is filed.

WHAT IS TRANSACTION VALUE?

The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to:

- A. The packing costs incurred by the buyer.
- B. Any selling commission incurred by the buyer.
- C. Value, apportioned as appropriate, of any assist.
- D. Any royalty or license fee that the buyer is required to pay, directly or indirectly, as a condition of the sale.

- E. The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

These amounts (items A through E) are added only to the extent that each 1) is not included in the price, and 2) is based on information accurately establishing the amount. If sufficient information is not available, then the transaction value cannot be determined and the next basis of appraisal, in order of precedence, must be considered.

WHAT IS THE PRICE ACTUALLY PAID OR PAYABLE?

The price actually paid or payable for the imported merchandise is the total payment, excluding international freight, insurance, and other C.I.F. charges, that the buyer makes to the seller. This payment may be direct or indirect. Some examples of an indirect payment are when the buyer settles all or part of a debt owed by the seller, or when the seller to settle a debt he owes the buyer reduces the price on a current importation. Such indirect payments are part of the transaction value.

EXAMPLE:

X Company in Dayton, Ohio pays \$2,000 to Y's Toy Factory in Paris, France for a shipment of toys. The \$2,000 consists of \$1,850 for the toys and \$150 for ocean freight and insurance. Y's Toy Factory would have charged X Company \$2,200 for the toys; however, since Y's Toy Factory owed X Company \$350, Y's Toy Factory only charged \$1,850 for this particular shipment of toys. Assuming the transaction is acceptable, what is the transaction value?

The transaction value of the imported merchandise is \$2,200, that is, the sum of the \$1,850 plus the \$350 indirect payment. Because the transaction value

excludes C.I.F. charges, the \$150 ocean freight and insurance charge is excluded.

However, if a buyer performs an activity on his own account, other than those listed in the foregoing A through E, then the activity is not considered an indirect payment to the seller, and is not part of the transaction value. This applies even though the buyer's activity might be regarded as benefitting the seller. One example of such activity is advertising.

WHAT ARE PACKING COSTS?

Packing costs means the cost of all containers and coverings of whatever nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

WHAT ARE SELLING COMMISSIONS?

commission means any commission paid to the seller's agent, who is related to or controlled by, or works for or on behalf of, the manufacturer or the seller.

WHAT IS AN ASSIST?

The apportioned value of any assist constitutes part of the transaction value of the imported merchandise. First the value of the assist is determined; then the value is prorated to the imported merchandise. (See below for further discussion of assists)

WHAT IS A ROYALTY OR LICENSE FEE?

Royalty or license fees that a buyer must pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States will be included in the transaction value. Ultimately whether a royalty or license fee is dutiable will depend on 1) whether the buyer had to pay them as a condition of the sale and 2) to whom and under what circumstances they were paid. The dutiability status will have to be decided on a case-by-case basis.

WHAT ARE PROCEEDS?

Any proceeds resulting from the subsequent sale, disposal, or use of the imported merchandise that accrue directly or indirectly to the seller are dutiable.

ARE ANY AMOUNTS EXCLUDED FROM TRANSACTION VALUE?⁽¹⁾

Yes. The amounts to be excluded from transaction value are:

1. The cost, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the goods from the country of exportation to the place of importation in the United States.
2. If identified separately, any reasonable cost or charge incurred for:
Constructing, erecting, assembling, maintaining, or providing technical assistance with respect to the goods after importation into the United States, or transporting the goods after importation.
3. The customs duties and other Federal taxes, including any Federal excise tax for which sellers in the United States are ordinarily liable.

ARE THERE ANY LIMITATIONS ON THE USE OF TRANSACTION VALUE?

Yes, if any of these limitations are present, then transaction value cannot be used as the appraised value, and the next basis of value will be considered. The limitations can be divided into four groups:

1. Restrictions on the disposition or use of the merchandise.
2. Conditions for which a value cannot be determined.
3. Proceeds of any subsequent resale, disposal or use of the merchandise, accruing to the seller, for which an appropriate adjustment to transaction value cannot be made.
4. Related-party transactions where the transaction value is not acceptable.

WHEN IS TRANSACTION VALUE “ACCEPTABLE” IN RELATED-PARTY TRANSACTIONS?

The term “acceptable” means that the relationship between the buyer and seller did not influence the price actually paid or payable. Examining the circumstances of sale will help make this determination.

Alternatively “acceptable” can also mean that the transaction value of the imported merchandise closely approximates any one of the following test values, provided these values relate to merchandise exported to the United States at or about the same time as the imported merchandise:

1. The transaction value of identical merchandise, or of similar merchandise, in sales to unrelated buyers in the United States.
2. The deductive value or computed value for identical merchandise or similar merchandise.

The test values are used for comparison only. They do not form a substitute basis of valuation.

In determining if the transaction value is close to one of the foregoing test values, an adjustment is made if the sales involved differ in:

- Commercial levels
- Quantity levels
- The costs, commissions, values, fees, and proceeds described in A through E as additions to the price actually paid or payable
- The costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related

Questions concerning related parties require a detailed analysis of the transaction and should be reviewed carefully by persons with expertise in the application of the value law.

WHAT IS AN “ASSIST?”

An assist is any of the items listed below that the buyer of imported merchandise provides directly or indirectly, free of charge or at a reduced cost, for use in the production or sale of merchandise for export to the United States.

- Materials, components, parts, and similar items incorporated in the imported merchandise.

- Tools, dies, molds, and similar items used in producing the imported merchandise.
- Merchandise consumed in producing the imported merchandise.
- Engineering, development, artwork, design work, and plans and sketches that are undertaken outside the United States and are necessary for the production of the imported merchandise.
“Engineering, development,...” etc. will not be treated as an assist if the service or work is 1) performed by a person domiciled within the United States, 2) performed while that person is acting as an employee or agent of the buyer of the imported merchandise, and 3) incidental to other engineering, development, artwork, design work, or plans or sketches undertaken within the United States.

HOW IS THE VALUE OF AN ASSIST DETERMINED?

In determining the value of an assist, the following rules apply:

1. The value is either a) the cost of acquiring the assist, if acquired by the importer from an unrelated seller, or b) the cost of producing the assist, if produced by the importer or a person related to the importer.
2. The value includes the cost of transporting the assist to the place of production.
3. The value of assists used in producing the imported merchandise is adjusted to reflect use, repairs, modifications, or other factors affecting the value of the assists. Assists of this type include such items as tools, dies, and molds.

EXAMPLE:

If the importer previously used the assist, regardless of whether he acquired or produced it, the original cost of acquisition or of production must be decreased to reflect the use. Alternatively repairs and modifications may result in the value of the assist having to be adjusted upwards.

4. In the case of engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the United States, the value is a) the cost of obtaining copies of the assist, if the assist is available in the public domain; b) the cost

of the purchase or lease if the assist was bought or leased by the buyer from an unrelated person; c) the value added outside the United States, if the assist was produced in the United States and one or more foreign countries.

So far as possible, the buyer's commercial record system is used to determine the value of an assist, especially such assists as engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the United States.

EXAMPLE:

A U.S. buyer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the imported merchandise. The U.S. importer bought the U.S. produced designs from an engineering company in the U.S. for submission to his foreign supplier. Should the appraised value of the merchandise include the value of the assist?

No, design work undertaken in the U.S. may not be added to the price actually paid or payable.

EXAMPLE:

A U.S. buyer purchases merchandise from a foreign producer. The price actually paid or payable includes the cost of U.S. design incorporated in the merchandise. Is there any authority to deduct the cost of the U.S. design from the price actually paid or payable?

No authority exists to deduct such costs from the price actually paid or payable.

EXAMPLE:

A U.S. buyer supplied molds free of charge to the foreign seller. The molds were necessary to manufacture merchandise for the U.S. importer. The U.S. importer had some of the molds manufactured by a U.S. company and others manufactured in a third country. Should the appraised value of the merchandise include the value of the molds?

Yes. It is an addition required to be made to transaction value.

HOW IS THE VALUE OF AN ASSIST APPORTIONED?

Having determined the value of an assist, the next step is to apportion that value to the imported merchandise. The apportionment is done reasonably and according to generally accepted accounting principles. By the latter is meant any generally recognized consensus or substantial authoritative support regarding the recording and measuring of assets and liabilities and changes therein, the disclosing of information, and the preparing of financial statements.

The method used to apportion the value of the assist depends on the details. For example, suppose the entire anticipated production using the assist is to be exported to the United States. Then the value of the assist could be pro-rated any one of several ways: over the first shipment if the importer wants to pay duty on the entire value at one time, over the number of units produced up to the time of the first shipment, or over the entire anticipated production. If the entire anticipated production is not destined for the United States, some other method of apportionment will be used that is consistent with generally accepted accounting principles.

WHAT IF THE IMPORTED MERCHANDISE CANNOT BE APPRAISED ON THE BASIS OF TRANSACTION VALUE?

The imported merchandise will be appraised in the order listed at the beginning of this pamphlet.

WHAT IS THE TRANSACTION VALUE OF IDENTICAL MERCHANDISE?

When the transaction value cannot be determined, then the customs value of the imported goods being appraised is the transaction value of identical merchandise. The value of the identical merchandise must be a previously accepted customs value.

WHAT IS THE TRANSACTION VALUE OF SIMILAR MERCHANDISE?

If merchandise identical to the imported goods cannot be found or an acceptable transaction value for such merchandise does not exist, then the customs value is the transaction value of similar merchandise. The value of the similar merchandise must be a previously accepted customs value.

WHAT IS DEDUCTIVE VALUE?

If the transaction value of imported merchandise, of identical merchandise, or of similar merchandise cannot be determined, then deductive value is calculated for the merchandise being appraised. Deductive value is the next basis of appraisement at the time the entry summary is filed, to be used unless the importer designates computed value as the preferred method of appraisement. If computed value was chosen and subsequently determined not to exist for customs valuation purposes, then the basis of appraisement reverts to deductive value.

If an assist is involved in a sale, that sale cannot be used in determining deductive value. So any sale to a person who supplies an assist for use in connection with the production or sale for export of the merchandise concerned is disregarded for purposes of determining deductive value.

Basically, deductive value is the resale price in the United States after importation of the goods, with deductions for certain items. Generally, the deductive value is calculated by starting with a unit price and making certain additions to and deductions from that price.

WHAT DEDUCTIONS CAN BE MADE?

Certain items are not part of deductive value and must be deducted from the unit price. These items are as follows:

1. Commissions usually paid or the addition usually made for profit and general expenses, in connection with sales in the U.S. of imported merchandise of the same class or kind as the merchandise concerned
2. Transportation/Insurance Costs
3. Customs Duties/Federal Taxes

4. Value of Further Processing (used only when the merchandise is not sold in the condition as imported)

CAN A DEDUCTION BE MADE FOR BOTH COMMISSIONS AND PROFITS?

No, the unit price is reduced by either a commission paid or the addition usually made for profit and general expenses.

WHAT IS COMPUTED VALUE?

The next basis of appraisement is computed value. If customs valuation cannot be based on any of the values previously discussed, then computed value is considered. This value is also the one the importer can select to precede deductive value as a basis of appraisement.

Computed value consists of the sum of the following items:

1. Materials, fabrication, and other processing used in producing the imported merchandise
2. Profit and general expenses
3. Any assist, if not included in items 1 and 2
4. Packing costs

WHAT IS THE VALUE IF OTHER VALUES CANNOT BE DETERMINED?

If none of the previous five values can be used to appraise the imported merchandise, then the customs value must be based on a value derived from one of the five previous methods, reasonably adjusted as necessary. The value so determined should be based, to the greatest extent possible, on previously determined values. Only data available in the United States is to be used.

WHAT IS THE IMPORTER OF RECORD'S OBLIGATION TO PROVIDE INFORMATION TO CUSTOMS?

The Mod Act requires the importer of record, or authorized agent, to complete an entry by filing with Customs the declared value of the merchandise, and other documentation and information as is necessary to enable Customs to properly assess duties on the imported merchandise.

The Mod Act requires the importer of record to use reasonable care in filing the information with Customs.

Customs Form 7501, the entry summary, requires that the importer of record or authorized agent declare that to the best of the declarant's knowledge, the entry fully discloses the true prices, values, quantities, rebates, drawbacks, fees, commissions and royalties, and is true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. In order for an importer to ensure that the value information provided to Customs is complete, it may be necessary for an importer to coordinate with all relevant corporate departments, such as research and development, contracting and shipping (traffic). Failure to do so might be considered a failure to exercise reasonable care, and may lead to delays in releasing your merchandise or to the imposition of penalties.

WHAT RECORDS MUST BE KEPT?

The Tariff Act requires any owner, importer, consignee, importer of record, entry filer or other party who imports merchandise into the U.S. to make, keep and render for examination and inspection, records which pertain to the importation of the merchandise and are normally kept in the ordinary course of business, for a period of time not to exceed five years, from the date of entry. The term "records" includes electronic data. These records would include purchase orders, payment information, shipping records, ledgers, research and development records, etc. In addition, certain records, required for the entry of merchandise must be produced upon demand by Customs. Failure to produce required entry records could lead to delays in release of your merchandise or to the imposition of penalties.

READ ME!!!

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs [Valuation, Classification, etc.] issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

1. The May 1996 revision deletes any references to decreases in prices paid after importation to avoid any misunderstanding.

*What Every Member of
the Trade Community Should
Know About:*

BUYING AND SELLING COMMISSIONS

**AN ADVANCED LEVEL INFORMED COMPLIANCE PUBLICATION
OF THE U.S. CUSTOMS SERVICE**

HARMONIZED TARIFF SCHEDULE OF THE
UNITED STATES (1998)/FOOTWEAR HANDBOOK

COMMERCIAL
INVOICE & MARKING
REQUIREMENTS

CUSTOMS VALUE

**BUYING AND SELLING
COMMISSIONS**

CUSTOMS BINDING
RULINGS PROGRAM

JUNE 1998

INTRODUCTION

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), which is also known as the Customs Modernization Act or “Mod Act,” became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws. Two new concepts which emerge from the Mod Act are “*informed compliance*” and “*shared responsibility*.” These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community’s responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act, as amended, ([19 U.S.C. 1484](#)) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care may lead to delay in the release of merchandise or the imposition of penalties.

My office has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs intends to issue a series of informed compliance publications, and possibly cd-roms and videos, on topics such as value, classification, entry procedures, determination of country of origin, marking requirements, intellectual property rights, recordkeeping, drawback, penalties and liquidated damages.

The Value Branch in the International Trade Compliance Division of the Office of Regulations and Rulings has prepared this publication on Buying and Selling Commissions, as part of a series of informed compliance publications regarding the appraisal of merchandise. It is hoped that this material, together with seminars and increased access to Customs rulings, will

help the trade community in improving voluntary compliance with the Customs laws.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs valuation issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs valuation. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed, and should be addressed to me at the Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW (Franklin Ct. Bldg), Washington, DC 20229.

Stuart P. Seidel

ASSISTANT COMMISSIONER • OFFICE OF REGULATIONS AND RULINGS

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BUYING AND SELLING COMMISSIONS

HOW IS IMPORTED MERCHANDISE APPRAISED?

All merchandise imported into the United States is subject to appraisal. The Trade Agreements Act of 1979 ("TAA") sets forth the rules for appraisal of imported merchandise. The preferred method of appraisal under the TAA is transaction value.

WHAT IS TRANSACTION VALUE?

The transaction value of imported merchandise is the price actually paid or payable for merchandise when sold for exportation to the United States, plus certain statutorily enumerated additions. For further information see the informed compliance publication "Customs Value", May, 1996.

HOW DOES THE ROLE OF AN INTERMEDIARY AFFECT TRANSACTION VALUE?

Many import transactions involve a party (or parties) who is neither the seller nor the buyer but an intermediary who assists either the buyer or seller in the purchase or sale of the imported merchandise. Identifying the role of the intermediary is important in determining the transaction value of the imported merchandise. An intermediary may function as either a buying or selling agent or as an independent buyer/seller. When the intermediary is functioning as an agent, the actual sale is between the foreign seller and the buyer with the agent acting as a facilitator. In such case, the issue to be decided is whether the commissions the agent receives for its services are part of the transaction value of the imported merchandise. This informed compliance publication explains the differences between buying and selling agents, buying and selling

commissions, and the ramifications of each for appraisal purposes.

When the intermediary is functioning as an independent buyer/seller, the issue to be decided is which sale is the sale for exportation for purposes of transaction value (the sale between the manufacturer/seller and the intermediary or the sale between the intermediary and the importer/buyer). The criteria used to determine whether the intermediary is functioning as an independent buyer/seller and if so, which is the sale for exportation is the subject of the informed compliance publication, "Bona Fide Sales and Sales for Exportation".

WHAT IS THE DIFFERENCE BETWEEN BUYING AND SELLING COMMISSIONS?

In legal terms, in an agency relationship, one party is called the agent and the other party, the principal. An agent is a person who performs actions on behalf of the principal. The fees the agent receives for its services are called commissions. Typically, the commission is equal to an agreed upon percentage of the price of the goods. In a buying agency, the principal is the buyer and in a selling agency, the principal is the seller. Buying commissions are fees paid to a bona fide buying agent for the services it performs on behalf of the buyer in connection with the purchase of the imported goods. Selling commissions are fees paid to a selling agent for the services it performs on behalf of the seller in the sale of the imported goods. It is important to note that when the intermediary is acting as an agent, it is not the actual buyer or the actual seller of the imported goods but rather, a party who is performing services on behalf of either the buyer or the seller.

HOW ARE BUYING AND SELLING COMMISSIONS TREATED UNDER THE TAA?

Selling commissions incurred by the buyer with respect to the imported merchandise are one of the specified additions to the price actually paid or payable. An addition is to be made for such selling commissions unless they are already included in the price. (For example, if the seller pays its agent a commission and includes this amount in the price it charges the buyer for the imported goods, no addition is made for the selling commission since it is already included in the price). Selling commissions incurred by the buyer with respect to the imported merchandise are included in the transaction value either as part of the price actually paid or payable or as an addition thereto.

Buying commissions are not one of the specified additions to the price actually paid or payable. Therefore, no addition is made for bona fide buying commissions incurred by the buyer (that is, commissions paid to a bona fide buying agent who meets the criteria discussed in this publication). Except as noted below, bona fide buying commissions are not included in the transaction value of the imported merchandise.

WHEN ARE BUYING COMMISSIONS INCLUDED IN TRANSACTION VALUE?

Buying commissions are included in the transaction value of the imported merchandise when they are part of the total payment made by the buyer to the seller. This is because the TAA does not authorize any deductions from the price actually paid or payable for buying commissions. (Example, the manufacturer bills the importer \$100 for the imported merchandise and the importer pays this amount to the manufacturer. This price includes a \$5 buying commission which the manufacturer will pay to the buying agent upon receipt of the \$100 payment from the importer. Even if Customs is satisfied that the intermediary is a bona fide buying agent, the total payment made by the buyer to the seller is \$100 and no subtraction would be made for commissions the buying agent receives).

WHAT ARE SOME EXAMPLES OF SERVICES WHICH ARE OFTEN PROVIDED BY BUYING AGENTS?

Examples of services which are characteristic of those rendered by a buying agent include compiling market information, gathering samples, translating, informing the seller of the desires of the buyer, locating suppliers, placing orders based on the buyer's instructions, procuring the merchandise, assisting in factory negotiation, inspecting and packing merchandise, and arranging for shipment and payment. This is not an exhaustive list.

WHEN IS THE INTERMEDIARY A BONA FIDE BUYING AGENT?

The courts have said that no single factor is determinative. Whether a person is a bona fide buying agent depends upon all the relevant facts of each case and the totality of the evidence. The fact that a person is called a buying agent does not mean that he/she is in fact a bona fide buying agent. Also, the fact that a person enters into a buying agency agreement with the buyer does not mean that such person is a bona fide buying agent. Having authority to act as a bona fide buying agent is not the same as actually performing as one. What needs to be considered is whether the services actually performed by the agent is what the parties agreed to and whether such actions are consistent with a bona fide buying agency.

In order to be considered a bona fide buying agent, the purported agent must be acting on behalf of and primarily for the benefit of the buyer, rather than for the seller or himself/herself. The main factor which determines whether a party is a bona fide buying agent is the right of the buyer to control the agent's conduct with respect to those matters entrusted to the agent. The buyer should control the purchasing process and the buying agent should take directions from the buyer and act upon the buyer's instructions. For example, a buying agent usually does not control who the manufacturer is or what is to be purchased. Normally, the buyer makes such decisions and the buying agent carries them out. Also, a buying agent usually does not control the manner of payment and other significant aspects of the purchase. While a buying agent may exercise some discretion, the ultimate purchasing decisions should be made by the buyer and not by the buyer's agent. The more discretion the purported agent

has, the less likely it is that such person is a bona fide buying agent.

Some factors considered by the courts which go to the main issue of “control” are: 1) which party bears the risk of loss for lost or damaged merchandise? (generally, a buying agent does not bear the risk of loss); 2) who absorbs the cost of shipping and handling? (buying agents generally do not absorb such costs); 3) which party controls the manner of payment for the goods? (generally, a buying agent would not control how and when the seller is paid); 4) could the buyer purchase from the manufacturers without using the services of the agent (if the answer is no, the agent may be a selling agent); 5) was the intermediary operating an independent business primarily for its own benefit? (if the answer is yes, it is possible that the intermediary is not an agent but an independent seller); 6) is the intermediary financially detached from the manufacturer or seller? (if not, it is possible that the intermediary may not be acting on behalf of the buyer, but on behalf of the seller); 7) what do the commercial documents show? (e.g., how are the parties referred to in the commercial documents; is there a buying agency agreement; is there a purchase agreement and if so, who are the parties thereto).

In many cases, a written buying agency agreement is entered into between the buyer and the buying agent which outlines the responsibilities of each party and sets forth the amount of commissions that are to be paid. In such case, the terms of the agreement should be reviewed to see whether they are consistent with a buying agency and whether the purported agent is actually performing the functions as provided in the agreement.

The totality of the evidence must be examined in order to determine whether there is a bona fide buying agency. The bottom line: does the evidence prove that the buyer is the party in control and that the purported agent is working for the buyer and not the seller or himself/herself?

WHAT ARE SOME INDICATIONS THAT THE INTERMEDIARY IS NOT A BONA FIDE BUYING AGENT BUT RATHER AN INDEPENDENT SELLER?

In some cases an intermediary may not be functioning as an agent at all, but rather as an independent buyer/seller. In such case, the amount that is referred to as the buying commission may actually be the intermediary’s mark-up or profit which would constitute part of the total price paid by the buyer and part of transaction value. Some indications

would be that the intermediary operates an independent business primarily for its own benefit, that it has unlimited discretion regarding the purchase of the goods from the seller, that the purported buyer and seller have no direct contact, and that the intermediary obtains title to the goods. For further discussion, see Informed Compliance Publication “Bona Fide Sales and Sales for Exportation”.

WHAT IS THE SIGNIFICANCE OF A BUYING AGENCY AGREEMENT OR THE ABSENCE OF SUCH AN AGREEMENT?

A written buying agency agreement which sets forth the obligations of the buyer and agent is evidence of the buying agency. However, it is not determinative. While the agreement is important, it is more important to consider whether the parties are actually doing what they agreed to do. For example, the fact that the agreement indicates that the agent must obtain the buyer’s written approval before entering into an agreement with the seller is meaningless if the purported agent never obtains the buyer’s written approval. Also, the fact that the agreement indicates that the buyer will be responsible for selecting the manufacturer is meaningless if the purported agent selects the manufacturer. Where the actions of the parties indicate that the buyer maintains little or no control over the agent, there is no bona fide buying agency relationship, even if the agreement provides otherwise.

The absence of a buying agency agreement does not necessarily preclude the existence of a bona fide buying agency relationship. However, it will be very difficult to establish one without it.

WHAT IF THE SELLER AND THE INTERMEDIARY ARE RELATED?

Since a buying agent is supposed to be acting on behalf of the buyer and in the best interests of the buyer, it is more difficult to show that the intermediary is a bona fide buying agent when it is related to the seller. The courts have said that while a relationship between the buying agent and the seller does not preclude the existence of a buying agency, the circumstances surrounding such transactions are subject to closer scrutiny. One factor that Customs has looked at in these cases is whether the purported agent always obtains the imported merchandise from the related seller

or whether it also regularly uses unrelated sellers. If the purported buying agent obtains the imported merchandise only from its related seller, it will be difficult for the importer to show that the agent is acting in the best interests of and under the direction and control of the buyer and a finding of a bona fide buying agency is unlikely. Another relevant factor when the seller and the intermediary are related is whether any of the commissions paid by the buyer inure to the benefit of the seller. If they do, this would not be consistent with a bona fide buying agency relationship.

WHO HAS THE BURDEN OF PROOF TO ESTABLISH THE EXISTENCE OF A BONA FIDE BUYING AGENCY?

The importer has the burden of proving the existence of a bona fide buying agency relationship. Absent sufficient proof, commissions paid by the importer will be included in the transaction value of the imported merchandise.

HOW SHOULD BUYING COMMISSIONS BE SHOWN ON THE COMMERCIAL DOCUMENTS?

There is no one invoicing method that must be used with regard to buying commissions. However, the method used (along with the method of payment) can either facilitate a determination of non-dutiable buying commissions or make such a finding more difficult. The method of invoicing and the method of payment is part of the total evidence that must be considered before a determination can be made regarding the status of so-called buying commissions. For example, the easiest way to show that the middleman is not a seller and that the payments to the middleman represent buying commissions is for the seller to invoice the buyer for the purchase price of the imported merchandise and for the middleman to invoice the buyer separately for its commissions. The buyer would then pay the seller for the goods and separately pay the middleman for its services. This method clearly shows the price paid for the imported merchandise and the amount of the commission.

WHAT DOCUMENTARY EVIDENCE IS NEEDED TO PROVE THE EXISTENCE OF A BONA FIDE BUYING AGENCY?

Before an importer declares the commissions as non-dutiable buying commissions, the importer should be sat-

isfied that the totality of the evidence demonstrates that the purported agent is a bona fide buying agent and not a selling agent nor an independent seller. The importer should be prepared to submit evidence which proves its claim. At a minimum, an invoice or other documentation from the seller, showing who the seller is, and establishing the price actually paid or payable for the imported goods must be submitted at the time of entry or upon demand by Customs if not requested at the time of entry. Any buying commissions should be shown separately from the price actually paid or payable for the imported merchandise. Any written buying agency agreement, invoices pertaining to the payment of buying commissions and other evidence of the buying agency should be submitted at the time of entry or upon request by Customs. The final determination of whether the commissions paid are bona fide buying commissions is made by Customs based on the documentation submitted.

WHAT HAPPENS IF THE IMPORTER DOES NOT PROVE THE EXISTENCE OF A BONA FIDE BUYING AGENCY?

Where an intermediary is involved in the import transaction and the importer cannot establish its role as a bona fide buying agent, depending on the facts presented, the intermediary will be considered either a selling agent or an independent seller. An importer who declares commissions as non-dutiable buying commissions without the evidence to back up its claim would not be exercising reasonable care and may be subject to penalty or other enforcement compliance action.

WHEN IS THE INTERMEDIARY A SELLING AGENT?

The same agency principles applicable to buying agents also apply to selling agents. However, in a selling agency, the principal is the seller. A selling agent represents the interests of the seller, rather than the buyer, in the sale of the imported merchandise. A selling agent may seek customers, collect orders, or otherwise assist the seller in the sale of the imported merchandise. In the case of a selling agency, the seller controls the actions of the selling agent with respect to those matters entrusted to the agent. For example, an importer may arrange for the purchase and importation of the merchandise with the seller's agent, rather than the seller. A selling agent could negotiate with

the importer, on behalf of the seller, concerning the sale of the imported goods. However, it is the seller, and not its agent, who has the ultimate authority with respect to the sale of the goods. If the intermediary has complete discretion regarding the sale of the goods, and/or obtains title and ownership from the seller, the intermediary would be considered an independent buyer/seller and not a selling agent.

When the intermediary and the seller are related, close scrutiny is required in ascertaining whether the intermediary is a bona fide buying agent or a selling agent. When the intermediary always obtains imported merchandise from its related sellers, it is likely that the intermediary is actually a selling agent. A similar result would be reached if any or all of the commissions paid by the buyer inure to the benefit of the seller.

Unless already included in the price, all selling commissions incurred by the buyer with respect to the imported merchandise are to be added to the price actually paid or payable for those goods.

DOES AN IMPORTER HAVE AN OBLIGATION TO REPORT COMMISSIONS TO CUSTOMS UPON ENTRY OF THE MERCHANDISE?

Yes. The importer is required to sign a declaration on the Customs Form 7501 submitted at the time of entry, which indicates among other things, that the submitted invoices include commissions. In this regard, 19 U.S.C. 1481, as amended, specifies that all invoices of merchandise to be imported into the United States and any electronic equivalent thereof shall prescribe, among other things, all charges upon the merchandise, including commissions. In addition, 19 U.S.C. 1481 requires the furnishing of any other facts deemed necessary to a proper appraisalment of the merchandise. 19 U.S.C. 1484, as amended, provides that an importer shall, using reasonable care complete the entry by filing with the Customs Service the declared value, ... and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to properly assess duties on the merchandise. This would include sufficient information to enable Customs to determine whether any commissions were paid by the buyer in connection with the imported merchandise and if so, whether they are buying or selling commissions. Therefore, invoices relating to the payment of the imported merchandise and the payment of commissions (both buying and selling commissions) and other relevant information discussed above should be provided to Customs. An importer who fails to declare commissions would not be exercising reasonable care and may be subject to penalty or other enforcement compliance action.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs valuation issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs valuation. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

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RULINGS PROGRAM

JUNE 1998

CUSTOMS BINDING RULINGS PROGRAM

PORT RULINGS PROGRAM

The importing public may submit a request for a binding classification ruling under Chapters 1 through 97 of the Harmonized Tariff Schedule (HTS) to any Customs Port Director or to the Port Director of Customs, New York Seaport, 6 World Trade Center, New York, NY 10048. The rulings will be binding at all ports of entry unless revoked by the Headquarters Office of Regulations and Rulings (OR&R).

The procedures under this new rulings program apply only to requests for classification rulings under the HTS. All such rulings will be issued within 30 calendar days of the date of receipt by the Customs Service. Some delay may occur if a laboratory report or consultation with another agency is required. Rulings which require referral to Headquarters, OR&R, will be issued within 120 days of receipt by the Customs Service.

The ruling request must concern prospective shipments and be in writing. Rulings will not be issued in response to oral requests. A copy of a binding ruling must be included in the entry/summary package to ensure classification uniformity. This requirement will be waived for paperless transactions.

INFORMATION REQUIRED IN RULING REQUESTS

Ruling requests must be in writing, must be filed in triplicate and must contain a complete statement of all relevant facts relating to the transaction including:

- The names, addresses, and other identifying information of all interested parties (if known); the manufacturer ID code (if known);
- The name(s) of the port(s) in which the merchandise will be entered (if known);
- A description of the transaction; for example, a prospective importation of (merchandise) from (country);
- A statement that there are, to the importer's knowledge, no issues on the commodity pending before the Customs Service or any court; and
- A statement as to whether classification (HTS or TSUS) advice had previously been sought from a Customs officer; and if so, from whom, and what advice was rendered, if any.

INFORMATION CONCERNING THE MERCHANDISE

Ruling requests must contain sufficient information to determine the proper tariff classification, such as:

- A full and complete description of the article;
- The article's principal use in the United States;
- The commercial, common, or technical designation;
- For articles composed of two or more materials, the relative quantity by weight of each component;
- Samples, individually packed for mailing, or illustrative literature;
- Chemical analysis, flow charts, CAS number, etc.;
- Inclusion of any special invoicing requirements in Part 141 of the Customs Regulations (if known); and
- Any other information which may assist in determining the appropriate tariff classification of the article.

Ruling requests will contain a maximum of 5 items in order to be accepted. The items in a single request must be of the same class or kind. For example, a request concerning textile articles may not include items such as footwear. If an importer has numerous items for which he seeks advice, he may qualify for a line review pre-entry classification. Importers interested in participating in the

Pre-Entry Classification Program should contact their local Customs field office. The outside of envelopes and packages should be annotated “Binding Ruling Request.”

If the ruling request does not conform to the above requirements, a letter will be sent by the receiving office to the requestor detailing the additional information needed.

STATUS OF PORT RULINGS

Classification rulings issued by Ports are binding and effective on the date of the ruling letter. These classifications will be accepted at entry, summary, and liquidation at all ports unless revoked by OR&R.

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